7

THE

REGULATIONS

OF THE

GOVERNMENT OF FORT ST. GEORGE,

IN FORCE AT THE END OF 1847;

TO WHICH ARE ADDED,

THE ACTS OF THE GOVERNMENT OF INDIA

IN FORCE IN THAT PRESIDENCY.

WITH A CLASSIFIED LIST OF TITLES,

A COPIOUS INDEX, AND GLOSSARY.

PREPARED, UNDER THE AUTHORITY OF THE HON. THE COURT OF DIRECTORS

OF

The East-India Company,

BY

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LATE OF THE MADRAS CIVIL SERVICE

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ERRATA AND ADDENDA

Reg. VII., 1802, Sec. xxxix., marginal reference—*for* "Act XXX., 1835," *read* "Act XXX., 1845."

Reg. VII., 1802, Sec. xv., *insert* in the note at the foot of page 55, after "Act XIV., 1844,"—"and Act X., 1847."

Reg. V., 1804, page 177, line 6, *insert* "VII."

Reg. I., 1805, Sec. viii., end of Clause First—*for* "Reg. IV., 1831," *read* "Reg. V., 1831."

Reg. XII., 1816, Sec. xii., *dele* the section, and *read*—"Superseded, see Sec. xxxvi., Reg. IV. 1816, and Sec. xli., Reg. VI., 1816."

Reg. VIII., 1817—*for* "Sec. x." *read* "Sec. ix."

Reg. I., 1828, Act XX., 1845, having been superseded while the work was in press, by Act XIX., 1847, the references to the *former Act* must now be altered to the *latter*.

Act XXX., 1836—*add* to the references at the end, "Act XIV., 1844."

List of Regulations, p. xii., Reg. VII., 1811, *add* "in Malabar and Canara."

——————— Reg. VIII., 1811, *for* "Malabar and Canara," *read* "Coimbetore."

——————— p. xv., Reg. IV., 1832, *for* "Europeans," *read* "Natives."

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PREFATORY NOTE.

In the Edition of the Regulations of the Madras Government now presented, all enactments which are no longer in operation have been omitted, except in a very few instances where a section or clause, though rescinded or superseded, has been referred to in a subsequent regulation, as in the case of Section X., Regulation XII., 1802; or where a provision in force during a certain period might occasionally require to be consulted in order to establish the admissibility of evidence, as in the case of Sections IX., X., XI., of the Stamp Regulation VIII., 1808.

Some important changes having been introduced into the system of judicial administration, and the powers of the courts and of the officers of that department having undergone essential alterations, the titles of the authorities so affected are throughout this edition printed in Italics.

First. The *Provincial Courts of Appeal and Circuit* have been abolished by Act VII., 1843; the duties of those courts, with certain modifications, have devolved upon the judges of the new Zillah Courts, established by the Order of the Governor in Council of Fort St. George, promulgated in virtue of the authority conferred by Section I., Act VII., 1843.

Secondly. The *Zillah Courts* as constituted under the Regulations have ceased to exist, and their duties have devolved either upon the auxiliary courts, established in their civil jurisdiction by Regulation I., and in their criminal jurisdiction by Regulation VIII., 1827, or upon the courts of the *Native Judges*, who were appointed as civil functionaries by Regulation VII., 1827, and as *criminal judges* by Regulation VIII., 1827. See Section I., Act VII., 1843.

The official designation of *Native Judge* was changed for that of Principal Sudder Ameen by Act XXIV., 1836. The titles of *Criminal Judge* and *Assistant Criminal Judge* have merged in those of Auxiliary or Subordinate Judge and Principal Sudder Ameen; the original titles are printed in Italics.

In a few special instances, certain duties executed by the original Zillah Judges are still entrusted to the officers holding that title under Act VII., 1843; in such cases the words Zillah Judge are printed in Roman type, the fact above referred to being stated in a note to the enactment itself.

Thirdly. The office of *Register to the Provincial Courts* having ceased with the abolition of those courts, and no Register being assigned to the new Zillah Courts, the

NOTE.

The GLOSSARY named in the Title-page will be printed separately, it being intended to serve for the three codes of Bengal, Madras, and Bombay.

title is always printed in Italics, except where it relates to the chief ministerial officer of the Sudder and Foujdarry Adawlut, whose functions are still retained.

FOURTHLY. The title of *Assistant Judge* having been superseded by that of the Auxiliary or Subordinate Judge, in respect of the officer appointed under Regulation I. of 1827, the former title is printed in Italics, except in Section LII., Act VII., 1843, which provides that an officer under that designation may be appointed, under special circumstances, to aid the Zillah Judge in his own court.

Besides the foregoing changes, which are of general application throughout the code, particular instances occur where special duties assigned in certain Regulations to a particular officer have been transferred to another functionary; in such cases the title of the officer originally, but no longer, charged with the duty in question is printed in Italics; for an example of this, see Regulation XXVIII. of 1802, where, it will be seen by the second note to the Title, that the Tahsildar has been charged with the sale of distrained property, originally entrusted to a *Darogha*.

Judicial oaths having been superseded by special affirmations, under the operation of Act V., 1840, the word *oath*, when referring to judicial acts, is printed in Italics.

When any section, or portion of a section, is retained in the text though no longer in operation, it is printed in Italics.

The subjects of such sections as are not printed *in extenso*, in consequence of their having been rescinded or superseded, are given in abstract, and reference is made to the enactments by which they are rendered inoperative.

The Commercial Branch of the East-India Company's service having, by virtue of the Act of the 3 & 4 William IV., cap. 85, ceased to exist, the designations of the officers of that department, and their duties, when requiring to be retained, are printed in Italics: so, also, are the terms *Madras* and *Arcot* as applied to the rupee, because, under the provisions of Act XVII., 1835, the Company's rupee. is the only recognized coin in the territories under the government of the East-India Company.

It will be observed that Italics are not used in any Preamble, as that portion of every Regulation is historical or explanatory, and not imperative or enacting.

It is hoped that the foregoing notices will be sufficient to explain what might otherwise have caused perplexity or doubt, and that the notes at the beginning of some Regulations, and in the margin of many others, will be found to render further explanations unnecessary.

APPENDIX

TO THE

PREFATORY NOTE.

SUPPLEMENT TO THE FORT SAINT GEORGE GAZETTE,

JULY 28, 1843.

FORT ST. GEORGE, JULY 28, 1843.

ORDER IN COUNCIL *abolishing the existing Civil and Criminal Courts, and for establishing new Zillah and subordinate Courts.*

WHEREAS by Section I., Act. VII. of 1843, the Governor in Council of Fort St. George is empowered, by an Order of Council, to abolish the Provincial Courts of Appeal and Circuit, and the Civil and Criminal Courts now existing in this Presidency, and to establish new Zillah Courts to perform the Civil and Criminal functions now performed by the said Provincial Courts, and to replace the existing Civil and Criminal Zillah Courts, by courts constituted according to Regulations I. and II. of 1827, or Regulations VII. and VIII. of 1827, at his discretion.

II. Wherefore, the Most Noble the Governor in Council, by virtue of the power thus vested in him, hereby orders and declares, that from the 15th day of September next ensuing, the four Provincial Courts of Appeal and Circuit, as well as the several Civil and Criminal Courts now existing under this Presidency, shall cease and be abolished; excepting, however, those courts which are at present superintended by district moonsiffs.

III. And the Most Noble the Governor in Council, in further exercise of the power thus vested in him, hereby directs and orders that at the stations noted in the margin,* a Zillah Court shall be established, to be superintended by one judge, who shall be styled civil and sessions judge of the zillah of ———; the judge at each of the two last-noted stations being, however, designated respectively civil and sessions judge of Honore and Tellicherry, of the second class.

* 1. Bellary	6. Nellore	11. Trichinopoly	16. Salem
2. Cuddapah	7. Guntoor	12. Combaconum	17. Mangalore
3. Chittoor	8. Masulipatam	13. Madura	18. Calicut
4. Chingleput	9. Rajahmundry	14. Tinnevelly	19. Tellicherry
5. Cuddalore	10. Chicacole	15. Coimbatore	20. Honore.

IV. And it is hereby directed and ordered, that at each of the stations noted in the margin,* a subordinate Civil and Criminal Court shall be established, constituted according to Regulations I. and II. of 1827.

V. And it is hereby directed and ordered, that at each of the stations noted in the margin,† a subordinate Civil and Criminal Court shall be established, constituted according to Regulations VII. and VIII. of 1827, save and except, that the Criminal Court at Cochin shall be established under Regulation II. of 1827.

VI. And it is hereby provided, that with the exception of the courts noted in the margin,‡ the jurisdiction of each of the courts specified in Paragraph III. of this order, and constituted as therein declared, shall extend over the whole tract included in the collectorate in which such court may be established.

VII. And it is hereby declared, that the jurisdiction of the Zillah and Sessions Court at Chicacole shall extend over such parts of the collectorates of Ganjam and Vizagapatam as have not, by Act XXIV. of 1839, been withdrawn from the operation of the general regulations.

VIII. And it is hereby declared, that the reserved jurisdiction vested in sessions judges by Section XLIV. of Act VII. of 1843 shall be exercised by the sessions judge of Chicacole, and shall extend over the aumany estate of Waddadah, in the collectorate of Ganjam, also over the aumany estate of Hoonjeram and the Hoondahs of Coopilly, Woongaradah, Sher Mahomedpooram, Seereepooram, Kintally, and Muntahna, in the collectorate of Vizagapatam.

IX. And it is hereby declared, that the jurisdiction of the principal sudder ameen of Itchapoor shall extend over those parts of the district of Ganjam which have not been withdrawn from the operation of the general regulations by Act XXIV. of 1839; provided, however, that the *Criminal* jurisdiction of the said principal sudder ameen shall not extend over the tracts in the collectorate of Ganjam, which in the preceding paragraph are declared to be placed under the reserved criminal jurisdiction of the sessions judge of Chicacole.

X. And it is hereby declared, that the jurisdiction of the principal sudder ameen of Vizagapatam shall extend over those parts of the district of Vizagapatam, which have not been withdrawn from the operation of the general regulations by Act No. XXIV. of 1839; provided, however, that the criminal jurisdiction of the said principal sudder ameen shall not extend over the tracts situated in the collectorate of Ganjam, which in Paragraph VIII. are declared to be placed under the reserved criminal jurisdiction of the sessions judge of Chicacole.

XI. And it is hereby declared, that the jurisdiction of the civil and sessions judge of Mangalore shall extend over such portions of the collectorate of Canara as lie south of

* 1. Bellary
2. Cuddapah
3. Chittoor
4. Rajahmundry
5. Combaconum
6. Madura
7. Salem
8. Mangalore
9. Calicut.

† 1. Chingleput
2. Cuddalore
3. Nellore
4. Guntoor
5. Masulipatam
6. Trichinopoly
7. Tinnevelly
8. Coimbatore
9. Itchapoor
10. Vizagapatam
11. Cochin.

‡ 1. Chicacole
2. Mangalore
3. Calicut
4. Tellicherry
5. Honore.

the Cundapore river, and have been included in the jurisdiction of the Zillah Court heretofore established at that station.

XII. And it is hereby declared, that the jurisdiction of the Civil and Sessions Court at Calicut shall extend over those parts of the collectorate of Malabar included in the jurisdiction of the Zillah Court heretofore established at that station.

XIII. And it is hereby declared, that the jurisdiction of the Civil and Sessions Court at Tellicherry shall extend over such parts of the collectorate of Malabar as have been included in the jurisdiction of the auxiliary court heretofore established at that station.

XIV. And it is hereby further declared, that the civil and sessions judge of Tellicherry shall exercise the powers indicated in Section XLV. of Act VII. of 1843.

XV. And it is hereby declared, that the jurisdiction of the principal sudder ameen at Cochin shall extend over those parts of the collectorate of Malabar which have been attached to the auxiliary court heretofore established at that station.

XVI. And it is hereby declared, that the jurisdiction of the Civil and Sessions Court of Honore shall extend over such portions of the collectorate of Canara as lie north of the Cundapore river, including the Payen and Bala Ghauts, and which have been attached respectively to the principal sudder ameen's courts heretofore established at Honore and Sircy.

XVII. And it is hereby further declared, that the civil and sessions judge of Honore shall exercise the powers indicated in Section XLV. of Act VII. of 1843.

XVIII. And it is hereby declared and provided, that a sudder ameen's court shall be established at Sircy under the provisions of Section XLVI., Act VII. of 1843, and with the powers therein prescribed, and that the jurisdiction of the sudder ameen of Sircy shall extend over that part of the collectorate of Canara, forming the jurisdiction of the principal sudder ameen's court heretofore established at that station; viz. the Soopa and Soonda Talooks.

Published by order of the

Most Noble the Governor in Council.

(Signed) J. F. THOMAS,

Secretary to Government.

LIST

OF THE

REGULATIONS CONTAINED IN THIS VOLUME.

REG.	JUDICIAL.		REVENUE.		Miscellaneous.	SUBJECT.
	Civil.	Criminal.	Land.	Customs, &c.		
1802.						
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II.	—					Jurisdiction of Civil Courts.
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IV.	—					—— Provincial Courts.
V.	—					—— —— Sudder Adawlut.
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VIII.		—				—— —— Foujdarry Adawlut.
XI.	—	—				Appointment of Law Officers.
XII.	—	—				Appointment and Duties of Ministerial Officers.
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XIX.					—	Loans to Natives by Civil Servants prohibited.
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V.			—			Court of Wards.
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IV.	—	—				Practice of Sudder and Foujdarry Adawlut.

REG.	JUDICIAL.		REVENUE.		Miscellaneous.	SUBJECT.
	Civil.	Criminal.	Land.	Customs, &c.		
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REG.	JUDICIAL.		REVENUE.		Miscellaneous.	SUBJECT.
	Civil.	Criminal.	Land.	Customs, &c.		
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REG.	JUDICIAL.		REVENUE.		Miscellaneous.	SUBJECT.
	Civil.	Criminal.	Land.	Customs, &c.		
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ACT.	JUDICIAL.		REVENUE.		Miscellaneous.	SUBJECT.
	Civil.	Criminal.	Land.	Customs, &c.		
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1845. XXXII.	Manufacture of Spirits by European Process.

b. *Stamps.*

1808. VIII.	*Stamp Duties between* 1809 *and* 1817.
1813. II.	*Stamp Duties on Cadjans between* 1813 *and* 1817.
1816. XIII.	Stamp Duties, general Rules.
1817. II.	Operation of Regulation XIII., 1816, deferred till 12th July, 1817—Stamps for Rowannahs and Tobacco Licenses.
1817. VI.	
1825. II.	Modification of Regulation XIII., 1816.
1831. V.	Penalties for Breaches of the Salt, Tobacco, and Stamp Laws.

c. *Salt.*

1805. I.	Provision and Monopoly of Salt.
1807. II.	Extension of Salt Monopoly to Malabar and Canara.
1818. II.	Import of Foreign Salt.
1831. V.	Recovery of Penalties for Breaches of the Law.
1840. XVII.	Penalties recoverable before Magistrates.
1844. VI. xliii. to xlv.	Price of Salt.

d. *Tobacco.*

1811. VII.	Provision and Monopoly of Tobacco in Malabar and Canara.

1811. VIII.	Extension of Tobacco Monopoly to Coimbatore.
1820. III.	Storing of Tobacco near Madras prohibited.
1831. V.	Recovery of Penalties for Breaches of the Law.
1831. IX.	Storing of Tobacco, Rules extended.

e. *Taxes.*

1816. I.	Police Tax in Tanjore.
1818. IV.	Assessment and Collection of the Veesabuddy Tax in the Ceded Districts.
1832. V.	Levy of the Mohturfa Tax.

7. Native Officers, their Appointment, Removal, and Duties.

1802. XXIII.	Appointment and Duties of Record Keepers.
1802. XXIX.	Office, Appointment, and Duties of Kurnums.
1806. II. vii.	Special Rules for Kurnums in Districts not permanently settled.
1822. VII.	Appointment and Removal of Native Officers generally.
1822. IX.	Inquiry into Misconduct or Malversation of Native Officers.
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a. *Public Works.*

1817. VII.	Maintenance of Endowments and Public Works.

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1832. IV.	Descendants of Europeans may hold and farm Lands, and become Sureties.
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V.

CIVIL, CRIMINAL, AND REVENUE ENACTMENTS OF LOCAL OPERATION.

1808. II.	Police Tax in Seringapatam.
1808. XV.	Appeals by Collector of Customs at Madras.
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1818. IV.	Assessment and Collection of the Veesabuddy Tax in the Ceded Districts.
1827. IX.	General Regulations declared applicable to Seringapatam.
1835. XII.	Sunuds for Noozeed and Ellore.
1836. XXVIII.	Madras Town Assessment.
1837. XXII.	Trial of Offences against Revenue Laws in Collectorate of Madras.
1838. III.	Anjengo and Changancherry annexed to Cochin.
1839. XXIV.	Suspension of the Laws in Ganjam and Vizagapatam.
1841. XXII.	Municipal Rates of Madras.
1843. X.	Administration of Kurnool and Bunganapillay.
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1803. IX.	Collection of Sea Customs, Madras.
1808. XV.	General Rules of Appeal made applicable to Collector of Sea Customs at Madras.
1812. II.	Import and Export of Naval and Military Stores.
1841. XVIII.	
1813. I.	Import and Excise Duties on Spirituous Liquors.
1818. II.	Import of foreign Salt.
1831. VII.	Regulation of foreign Trade.

1836. XXV.	Warehousing Ports, and Warehouses.
1841. XIII.	
1837. XIV.	Reciprocation of Duties with foreign States.
1839. XIII.	Port Regulations and Charges, Madras.
1839. XV.	Import and Export of Sugar.
1842. XI.	
1841. X.	Registry of Ships.
1841. XXIII.	Importation of Rum prohibited.
1842. IV.	Boats and Catamarans.
1846. IX.	
1843. XXV.	Counterfeit Marks on foreign Goods.
1844. VI.	Abolition of Inland Customs—Revisal of Sea Customs.
1845. IX.	Revisal of Sea Customs Duties.
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1812. II.	
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1845. XV.	
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1828. I.	Execution of Sentences of Courts-Martial.
1839. XXIII.	
1840. II.	
1841. XXVIII.	
1832. VII.	Military Bazars.
1836. IX.	Commanding Officers may administer like Oaths as Justices of the Peace.
1841. XI.	Military Courts of Requests.
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VIII.

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1835. X.	Acts passed by Government, how proved.

2. Secretaries to Government.

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1835. XVII.	Gold, Silver, and Copper.
1835. XXI.	Copper Coins.
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1837. XVII.	General Post Office Laws.
1838. XX.	Bhangi Post.
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6. Press and Printing.

1835. XI.	General Rules for Regulation of the Press.
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7. Emigration.

1839. XIV.	Contracts with Natives to emigrate, prohibited.
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1844. XXI.	To certain Parts of West Indies, sanctioned and regulated.
1845. XXV.	Time of Ships sailing.
1847. XIII.	To Ceylon, sanctioned and regulated.

8. Slavery.

1843. V.	Condition of Slavery.

9. Lotteries.

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REGULATIONS

PASSED BY THE

GOVERNOR IN COUNCIL OF FORT ST. GEORGE.

BENGAL SECRETARIAT LIBRARY

REGULATIONS

PASSED BY THE

GOVERNOR IN COUNCIL OF FORT ST. GEORGE.

A.D. 1802. REGULATION I.

[FRAMED UPON REGULATION XLI., 1793, OF THE BENGAL CODE.]

A REGULATION* *for forming into a regular Code all Regulations that may be enacted for the internal Government of the British Territories immediately subject to the Presidency of Fort St. George:* PASSED *by the Governor in Council of Fort St. George, on the 1st January,* 1802.

IT is essential to the future prosperity of the British territories immediately subject to the Presidency of Fort St. George, that all regulations which may be passed by Government, affecting in any respect the rights, persons, or property of their subjects, should be formed into a regular code, and printed with translations in the country languages; that the grounds on which each regulation may be enacted should be prefixed to it, and that the courts of justice should be bound to regulate their decisions by the rules and ordinances which those regulations may contain. A code of regulations framed upon the above principles will enable individuals to render themselves acquainted with the laws, upon which the security of the many inestimable privileges and immunities granted to them by the British Government depends, and the mode of obtaining speedy redress against every infringement of them; the courts of justice will be able to apply the regulations according to their true intent and import; future administrations will have the means of judging how far regulations have been productive of the desired effect, and when necessary, to modify or alter them, as from experience may be found advisable; new regulations will not be made, nor those which may exist be repealed, without due deliberation, and the causes of the future decline or prosperity of these provinces will always be traceable in the code to their source. The Governor in Council has accordingly enacted as follows.

* This enactment has ceased to be operative in respect of legislation since the passing of the Statute 3 & 4 William IV., c. 85, of which the 43rd section vests in the Governor-General in Council the power of making laws for the several presidencies. It is retained in this collection because it is a key to the construction of the enactments of the Madras Government from 1802 till 1834, when local regulations ceased to be enacted

Rules and orders affecting the rights, persons, or property of the people, to be formed into regulations in the judicial department, and printed and published as hereafter directed.

II. Every rule or order that may be passed by the Governor in Council of Fort St. George, regarding the administration of justice; the imposition or levying of taxes, or of duties on commerce; the collection of the public revenues assessed upon the lands; the rights and tenures of the proprietors, and cultivators of the soil; the provision of the Company's investment; the manufacture of salt; and generally all regulations affecting in any respect the rights, persons, or property of the natives, or any individuals who may be amenable to the provincial courts of judicature, shall be recorded in the judicial department, and there framed into a regulation, and printed and published as hereafter directed.

Regulations to be numbered.
First regulation passed in each year to be numbered one, and the subsequent regulations in their order.
Number of each regulation, and the year in which it may be passed, to be inserted at the top of the page.

III. The regulations passed annually shall be numbered. The first regulation enacted in each year shall be numbered one, and all subsequent regulations according to the order in which they may be passed. The number of each regulation, and the year in which it may be enacted, is to be inserted at the top of every page, as in this regulation.

A title to be prefixed to every regulation.

IV. Every regulation shall have a title, expressing the subject of it as concisely as possible, similar to the title prefixed to this regulation.

Regulations to have a preamble stating the grounds of their being enacted.
Reasons for repealing or modifying former regulations to be detailed in the preamble.

V. *First.* There shall be a preamble to every regulation, stating the reasons for its being enacted.

Second. If any regulation shall repeal or modify a former regulation, the reasons for such repeal or modification are to be detailed in the preamble.

Regulations to be divided into sections and numbered.
Preamble to be the first section.
Sections may be divided into clauses.

VI. Every regulation is to be divided into sections. Each section shall be numbered according to the order in which it may occur. The preamble is to be considered as the first section. The sections, where necessary, may be divided into clauses; in which case each clause is to be numbered in the same manner as the clauses in Section V.

References to clauses, sections, or regulations, how to be made.

VII. In framing a regulation, if there shall be occasion to refer to any clause or section of a regulation, or to any regulation at large, as for example, the second clause of the fifth section, or the sixth section of this regulation, or this regulation generally, the reference, in each case, shall be expressed in the following manner: Clause Second, Section V., Regulation I., 1802; Section VI., Regulation I., 1802; Regulation I., 1802.

Subject of clauses and sections to be inserted in a marginal note.

VIII. The subject of every section and clause shall be inserted opposite to it in the margin as concisely as possible.

Size of the paper on which regulations are to be printed.

IX. Every regulation is to be printed on paper of the same size as the paper on which this regulation is printed.

Index to the regulations passed annually to be prepared.

X. At the expiration of each year, a copious index to the regulations passed during the course of it shall be prepared and bound up with them.

Superintendent of the press to prepare a certain number of copies of the regulations and the translates.

XI. The superintendent of the Company's press, or such other person to whom the charge of printing may be committed, is to prepare (agreeably to the directions he may receive in that respect from the Governor in Council)

a certain number of copies of the several regulations that may be passed and printed annually, and the same number of copies of the translates of them in the Persian, Telinga, and Tamul languages, or in any other of the country languages, which the Governor in Council may be pleased to direct. At the close of the year, after he has been furnished with the index ordered to be prepared in the preceding section, he shall bind up the English printed copies of the regulations, and the Persian, Telinga, and Tamul copies, each in separate volumes. The English copies of the regulations, and those in the Persian, Telinga, and Tamul languages, or other of the country languages, are to be distributed as they are passed, and printed in such proportions as the Governor in Council may direct, amongst the courts of justice, the Boards of Revenue *and Trade*, the collectors of the land revenue and the customs, *and the commercial residents and salt agents*, or other public officers, or such individuals to whom it may be thought necessary to deliver copies.

To bind up such copies and translates with the index.

How to dispose of them

XII. Ten of the English copies of the regulations passed annually, bound up with the index as directed in Section XI., shall be transmitted to the Honourable Court of Directors, by the two first ships that may be despatched for England after the volumes are completed. Five copies are to be sent in each of the two ships. Ten copies shall be transmitted annually to the Board of Commissioners for India Affairs; and the like number to the Governor-General in Council.

Ten of the English copies of the regulations bound up with the index to be sent to the Court of Directors annually

Ten to the Board of Commissioners for India affairs, and the like number to the Governor-General

XIII. The civil and criminal courts of justice are to be guided in their proceedings and decisions by the regulations which may be framed and transmitted to them as above directed, and by no other.

Courts of justice to be guided in their proceedings and decisions by the regulations.

XIV. In the English drafts of regulations, the same designations and terms are to be applied to the same descriptions of persons and things; in order that rights, property, tenures, privileges, deeds, courts, process, offices, officers, and generally all persons and things, may be uniformly described by the same designations and terms throughout the judicial code.

Persons and things to be described by the same designations and terms throughout the judicial code

XV. Every regulation, with the marginal notes, shall be translated into the Persian, Telinga, and Tamul, or other of the country languages, by the translators to the Government, or such other persons as the Governor in Council may expressly appoint for that purpose. The number of the regulation, and the year in which it may be passed, and the numbers of the sections and clauses, shall be inserted in the translates, in the same manner as in the English drafts of the regulations.

Regulations with marginal notes to be translated into the Persian, &c.

Number of the regulation, and the year in which it may be passed, to be inserted at the top of the page, and the clauses and sections to be numbered as in the English draft

XVI. The translator is to be particularly careful to preserve in the translates the same uniformity in the designations and terms applied to persons and things, as is directed with regard to the English code in Section XIV. Whenever he shall have occasion to insert the designation or name of any person or thing, that he may have reason to believe may not be intelligible to the natives in general, and which may not have been used and explained in the translates of any former regulation, he shall in the first passage in which such word or term may occur, subjoin an

Uniformity in designations and terms applied to persons and things to be carefully preserved in the translates

All designations and terms not before used to be explained in the translates

explanation of it, that upon its recurring, no doubt may be entertained as to its true meaning and import.

Translator to correct errors of the press in the printed translates.

XVII. It shall be the duty of the translator to revise the proof-sheets of the printed translates, and to correct all errors of the press.

Translations to be made in plain and easy language, and the idiom of the languages to be adopted.

XVIII. The translator is to translate the regulations into plain and easy language, and in all possible cases to reject words not in common use. As far as may be consistent with the preservation of the true meaning and spirit of the regulations, he shall adopt the idiom of the native languages, instead of giving a close verbal translation of the English drafts, which must necessarily render the translates obscure, and often unintelligible to the natives.

One part of a regulation to be construed by another.

XIX. One part of a regulation is to be construed by another, so that the whole may stand.

Rules for construing new regulations differing wholly or partially from former regulations.

XX. If any regulation shall be passed differing from a former regulation, either wholly or partially, the new regulation is to be considered as a virtual repeal of the old one, as far as it may differ from the latter; provided that the new regulation be couched in negative terms, or by its matter necessarily imply a negative.

Repealed regulation revived by the rescinding of the repealing regulation.

XXI. If a regulation that rescinds another regulation is itself afterwards rescinded, the original regulation is to be considered as revived, without any formal declaration to that purpose.

A.D. 1802. REGULATION II.

[Framed upon Regulation III., 1793, of the Bengal Code.]

A Regulation *for establishing and defining the Jurisdiction of the Courts of Adawlut, or Courts of Judicature, for the Trial of Civil Suits in the first instance, in the British Territories immediately subject to the Presidency of Fort St. George:* Passed *by the Governor in Council of Fort St. George, on the* 1st *January,* 1802.

Great inconvenience having hitherto been experienced from the administration of justice being vested in persons holding the situation of collector of the revenue, inasmuch as acts done in the one capacity came often to be reviewed and decided on in the first instance in the other; and that the said officers were otherwise disqualified for such judicial duties from the other calls of their office; the Governor in Council has therefore determined that the offices of judge, or magistrate, and collector of the revenue, shall in future be held by distinct persons; and

that for the better administration of justice, *Zillah* Courts shall be established in the several districts hereinafter named, under the provisions and rules laid down in this regulation.

II. [Enumeration of Zillah Courts to be established.]—*Rescinded by Section IV., Regulation I.*, 1821. *New courts established by proclamation of the Governor in Council, dated 28th July*, 1843, *issued under the provisions of Act VII.*, 1843.

Modified by Secs. iii. & iv., Act VII., 1843.

Of the jurisdiction of the *Zillah* Courts.

III. The jurisdiction of the *Zillah* Courts shall extend to all civil suits arising within the districts and places that are or may be included in the *zillahs* in which they are respectively established.

See Act XI., 1836.

Zillah Courts to have jurisdiction over all persons *not British subjects.*

IV. All natives, and other persons *not British subjects*, are amenable to the jurisdiction of the *Zillah* Courts.

Of what suits the *Zillah* Courts are to have cognizance, when the defendant comes under the description of persons mentioned in Section IV.

V. The *Zillah* Courts are empowered to take cognizance of all suits and complaints respecting the succession or right to real or personal property, land rents, revenues, debts, accounts, contracts, partnerships, marriage, cast, claims to damages for injuries, and generally of all suits and complaints of a civil nature, *in which the defendant may come within any of the descriptions of persons mentioned in Section IV.*, provided the landed or other real property to which the suit or complaint may relate shall be situated, or, in all other cases, the cause of action shall have arisen, or the defendant at the time when the suit may be commenced shall reside as a fixed inhabitant, within the limits of the *zillah* over which their jurisdiction may extend.

VI. [British subjects, how to be made amenable to the Zillah Courts.] —*Superseded by Act XI.*, 1836.

These offices do not now exist.

Collectors of the revenue and customs, *commercial residents, salt agents*, mint, and assay masters, and their respective officers, amenable to the courts for acts done in their official capacity.

VII. Collectors of the revenue and their assistants, and native officers, [*commercial residents, and agents and their assistants, and native officers employed in the provision of the investment, salt agents and their assistants, and native officers concerned in the manufacture of salt,*] the collectors of the customs and their assistants, and native officers employed in the collection of the customs, the mint and assay masters and their assistants, and native officers, are hereby declared amenable to the *Zillah* Court in the jurisdiction of which they may reside, or carry on the public business committed to their charge, for any act or acts done in their official capacity in opposition to any established regulation.

See Reg. I., 1823.

Private debts of any native prince, rajah, zemindar, polygar, or other independent landholder, who did not, at the time of contracting them, stand amenable to a court of justice, or by the *Zillah* Courts. other authority for their discharge, not cognizable

VIII. The *Zillah* Courts are prohibited hearing, trying, or determining the merits of any suit whatever, for the discharge of the private debts of any native prince, rajah, zemindar, polygar, or other independent landholder, who did not, at the time of entering into such engagements, stand amenable to a court of justice, or some public authority, for their discharge.

No court is to receive a suit previously instituted in another court in which it may be cognizable.

IX. If a suit shall have been instituted in the *Court of Adawlut of any zillah* in which it may have been cognizable, no other *Zillah* Court is to entertain a suit for the same cause of action. On proof being made in

Court in which the second suit may be instituted, to dismiss it with costs to be paid by the party suing.

Further penalty for instituting such second suit, either whilst the first suit is depending, or after a decree is passed.

the court in which the second suit may be commenced, that a prior suit for the same cause of action has been instituted in another *Zillah* Court competent to try it, the court in which the second suit may be brought is to dismiss it with costs, to be paid by the party so suing. And if any person shall have commenced a suit in the Adawlut Court of any *zillah*, and whilst that suit is depending, or after a decree may be passed in it, shall commence another suit in any other *Zillah Court of Adawlut* for the same cause; or if any person shall commence a suit in any *Zillah Court of Adawlut* which shall appear to the judge to be frivolous, vexatious, or groundless, he is not only to dismiss the suit with such costs as he may deem it equitable to award against the plaintiff, but is to fine him in such amount as he may think proper, upon a consideration of the nature of the case, and the situation and circumstances in life of the offender, and commit him to close custody until he pays the fine.

Penalty for the institution of frivolous, vexatious, or groundless suits.

Judges not to entertain suits which may have been decided by any former judge, or officer having competent jurisdiction.

Doubts respecting the competency of the former jurisdiction to be submitted to the Sudder Adawlut.

X. The *Zillah* Courts are prohibited from entertaining any cause which, from the production of a former decree, or the records of the court, or other instrument, shall appear to have been heard and determined by any former judge, superintendent of a court, collector, or other public officer having competent jurisdiction or authority. If any doubt should arise respecting the competency of the former jurisdiction or authority, the judges are to report the circumstances to the Sudder Adawlut, and wait the instructions of that court.

Courts prohibited taking cognizance of any matters of a criminal nature.

Exceptions to the rule.

XI. The *Zillah* Courts are prohibited from interfering in any respect in any cause or matter of a criminal nature declared cognizable by the magistrates of the several zillahs, the *Courts of Circuit*, or the Foujdarry Adawlut, or any other courts for the trial of cases of a criminal nature, that now exist, or which may be hereafter established; excepting for contempt and perjuries committed in open court, as prescribed in Sections VIII. and XXII., Regulation III., of 1802.

Of what suits the *Zillah* Courts are prohibited taking cognizance as coming within the jurisdiction of the Supreme Court of Judicature.

Limits of the Supreme Court.

XII. The *Zillah* Courts are not to receive or entertain any suit, under any pretence whatever, relating to any land, house, tenement, or hereditament, nor a dispute regarding the boundaries of lands, houses, tenements, or hereditaments, situated within the town of Madras or the limits of the Supreme Court of Judicature at Madras, which for the purpose of this rule is declared to be bounded as follows:—That the southern limits shall be the southern bank of the Saint Thomé river, as far as the road leading to the Long Tank; that the limits shall then be continued in a northern direction along the bank of the Long Tank, and from thence along the bank of Nungumbaukum Tank, as far as the village of Chettapet, upon the banks of the Poonamally river; that the limits shall be continued, in the same direction, to the villages of Kilpaukum and Peramboor, and that, from the latter village, it do take an eastern direction to the sea, so as to include the whole village of Tandearpetta; also that no lands situated to the southward of the Saint Thomé river, or to the westward of the bank of the Long Tank, or of the Nungumbaukum Tank, shall be considered within the limits of the said town of Madras; but that all the lands included in the said villages of Chettapet, Kilpaukum, Peramboor, and Tandear, shall be considered

within the said limits. Nor shall the *Zillah* Courts entertain any suit whatever against a person who may be a resident of Madras, or of any place within the said limits, at the time the suit may be instituted. The courts are commanded not to intermeddle with, or take cognizance of the suits above mentioned, which are to be considered entirely exempt from their jurisdiction. But the prohibitions contained in this section are not to be construed to extend to preclude the *Zillah* Courts entertaining any suit concerning marriage, or cast, in which no money or other valuable thing may be demanded or decreed, although the cause of action shall have arisen, or the defendant may reside, or shall have resided at the time the suit commenced, within the limits of the Supreme Court.

Exceptions to the rule.

XIII. Each *Zillah* Court is to be superintended by one judge, who, previous to entering upon the execution of the duties of his office, shall take and subscribe the following oath before the Governor in Council, or any person whom he may commission to administer it.

See Act XXI., 1837.

Each *Zillah* Court to be superintended by one judge.

"I, A. B., appointed judge of the *Court of Adawlut of the Zillah of* ( ); solemnly swear, that I will administer justice conformably to the regulations that have been or may be passed by the Governor in Council, to the best of my ability, knowledge, and judgment, without fear, favour, promise, or hope of reward; that I will not receive, directly or indirectly, any present or nuzzer, in money or effects of any kind, from any party or person whomsoever, on account of any suit to be instituted, or which may be depending, or has been decided, in the court of which I am appointed judge; that I will not knowingly permit any person or persons under my authority, or in my immediate service, to receive, directly or indirectly, any present or nuzzer, in money or effects, from any party or person whomsoever, on account of any suit to be instituted, or which may be depending, or has been decided in the court; that I will render a true and faithful account of all sums of money that may be paid into the court, or disbursed from it; that I will not be concerned, directly or indirectly, in the purchase of any goods or commodities in the British dominions, under the Presidency of Fort St. George, for the purpose of remitting money to Europe, nor in any commercial transactions; and that I will not derive, directly or indirectly, any emoluments or advantages from my station, excepting such as the orders of Government do or may authorize me to receive.

"SO HELP ME GOD."

Oath to be taken by the judges of the *Zillah* Courts.

XIV. The *Zillah* Courts are to be held in a large and convenient room in the city or place at which they are respectively established, three days in every week, or oftener if the state of the business shall render it necessary. Whenever the judge of a *Zillah* Court, from indisposition or other cause, shall be prevented from holding a court three days in each week, as above required, he is at the expiration of the week to report the cause of the court not being so held to the Sudder Adawlut. This report is not to be made when the court may be shut pursuant to orders from the Sudder Adawlut under *Section XXIII., Regulation V.*, 1802.* No rule, order, proceeding, or decree shall be

Courts to be held in a large room three days in every week, or oftener, if necessary.

Judges to inform the Sudder Adawlut whenever they may be prevented holding a court as often as is herein required.

No act to be done

* Substitute Reg. III., 1816.

but on court days, and in open court.

Seals of the courts.

made but on court days, and in open court. The *Zillah* Courts are to use a circular seal, one inch and three-quarters in diameter. The seals are to bear an inscription to the following effect, in the Persian character and language; and also in the character and language of the district:—

" The seal of the *Court of Adawlut of the Zillah of*

Seal to remain in the custody of the judge.

The seal of each court is to remain in the custody of the judge.

XV. [Rules for the institution of suits against public officers for official acts.]—*Superseded by Regulation I.*, 1823.

Court how to try the cause.

Officer by whom the act may have been done to carry on the suit on the part of Government.

Officer how to proceed in the event of Government being cast in any of the courts.

The court is then to proceed to try the suit under the same rules and regulations as are prescribed for the trial of suits between individuals. The officer by whom the act complained against may have been done is to carry on the suit under the directions of the Governor in Council, or the Board of Revenue *or Trade*, according to the immediate authority under which he may have acted, and is to issue the necessary instructions to the vakeel of Government in the court in which the suit may be instituted, or subsequently carried in appeal. In the event of Government being cast in any of the courts, the officer intrusted with the management of the suit is to send a copy of the decree and proceedings of the court to the Governor in Council, or to the Board of Revenue *or Trade*, according to the immediate authority under which he may have acted, with a letter, stating any objection that he may have to offer to the decision. The boards above mentioned are to submit all such decrees and proceedings to the Governor in Council, with their opinion respecting them. The Governor in Council will order an appeal from the decisions that may be transmitted to him under this section, to be preferred or not, as may appear to him advisable. The costs and damages that may be awarded against Government in suits instituted under this section are to be defrayed from the public treasury.

Decree to contain the grounds on which it is passed.

XVI. The judges of the *Zillah* Courts are invariably to state in every decree the grounds on which they may pass it.

Judges to act according to justice, equity, and good conscience, in cases for which no specific rules exist.

XVII. In cases coming within the jurisdiction of the *Zillah* Courts, for which no specific rule may exist, the judges are to act according to justice, equity, and good conscience.

Suits in the Northern Circars for real property, not cognizable beyond 26th February, 1768.

XVIII. *First.* The Courts of Adawlut are prohibited hearing, trying, or determining the merits of any suit, against any person or persons, to regain the possession of lands, or grounds, or other real property, situated within either of the five Northern Circars, if the cause of action shall have arisen previous to the acquisition of these provinces by the Company's government, which, for this purpose, shall be reckoned from the twenty-sixth day of February, 1768.

The same rule applicable to Cuddalore, the Jageer, and certain other districts.

Second. The said period (of the twenty-sixth of February, 1768) shall be held equally applicable as to the purposes aforesaid, in respect to the town and district of Cuddalore, the Jageer lands, or other territories at that time subject to the jurisdiction of the Company's government.

In cases subsequent to 1768, the date of the particular acquisition shall become the period of limitation.

Third. In cases not falling within the above descriptions, and where the country, town, or district may have accrued to the possession of the Company's government at any time subsequent to the said 26th of

February, 1768, the date of the particular acquisition shall in every instance become the period beyond which no civil suit or cause of action shall be cognizable by the Adawlut Courts; provided, however, that the date of such acquisition shall not exclude from the cognizance of the courts any suit where the cause of action may have arisen within twelve years antecedent to the date of enacting this regulation; all suits, where the cause of action may have arisen within twelve years antecedent to the passing of this law, are hereby declared equally cognizable by the Adawlut Courts, notwithstanding the country, town, or district in which the cause of action shall have arisen may not at that time have been subject to the Company's government.

Exception.

Fourth. The Courts of Adawlut are prohibited hearing, trying, or determining the merits of any suit whatever, against any person or persons, if the cause of action shall have arisen twelve years before any suit shall have been commenced on account of it, unless the complainant can shew, by clear and positive proof, that he had demanded the money, or matter in question, and that the defendant had admitted the truth of the demand, or promised to pay the money, or that he directly preferred his claim within that period, for the matter in dispute, to a court of competent jurisdiction, or person having authority, whether local or otherwise, for the time being, to hear such complaint, to try the demand, and shall assign satisfactory reasons to the court why he did not proceed in the suit, or shall prove that, either from minority, or other good and sufficient cause, he was precluded from obtaining redress. But from this rule are excepted all claims founded on bonds which shall have been in course of payment by instalments, or of which any proportion shall have been paid within twelve years previous to the institution of the suit; and also all claims on mortgages, the period for rendering which obsolete and unactionable is to be determined by the laws of the country.

Courts not to try the merits of any suit where the cause of action shall have arisen twelve years before a suit or suits shall have been commenced for it.

Exceptions to the rule.

Further exceptions in respect to bonds and mortgages.

XIX. The *Zillah* Courts are not to pass a decree in any suit concerning the succession or right of inheritance to a zemindarry, talook, land, house, or other real property, to which there are more claimants than one, who, by the Hindoo or Mahomedan law (respect being had to the religion of the claimants), would be entitled to a portion of the property, excepting the property be, by the decree, adjudged to all the claimants in the proportions to which they may be respectively entitled.

Decrees for real property to specify the shares of all the claimants.

For exceptions in soldiers' suits see Sec. ii., Reg. VIII., 1817.

XX. The Judges of the *Zillah* Courts are prohibited from corresponding by letter with parties in suits, process, or matters depending before them, or coming within their cognizance. If a party in a suit, or a person amenable to the jurisdiction of the court, shall have any matter to represent to the court, he is either to appear in the court in person and represent the matter in writing, or make the representation in writing through an authorized vakeel. The court is to pass whatever order upon the representation may appear to it proper, consistently with the Regulations, and to direct a copy of the order to be delivered to the person making the representation, or to his vakeel under the seal of the court, and attested by the *register*. The Judges of the *Zillah* Courts are also prohibited from corresponding by letter with the *Provincial Courts of Appeal*, respecting any cause or matter before those courts, or upon any

Zillah Courts prohibited corresponding with parties in suits, or any person, respecting matters cognizable in the courts.

Judges of the *Zillah* Courts prohibited corresponding with the *Provincial Courts*.

matters whatever, on which they may not be specially empowered so to correspond. When a Judge shall have occasion to communicate to the *Provincial Court* any information that may be required from him by the court, or which he may deem it necessary to submit to the court, respecting any matter or cause that may be before it, he is to certify it to the court by a writing under his official seal and signature.

XXI. [Limitation of Appeals from the Zillah Courts.]—*Rescinded by Sec. XXIV., Reg. VII.*, 1809.

XXII. [Rules regarding review of judgment.]—*Rescinded by Sec. VI., Reg. XV.*, 1816.

Zillah judges to apply to the Governor in Council for permission to quit their stations, and to wait the receipt thereof.

Exception.

XXIII.* *First.* Any *Zillah Judge and Magistrate* who may be desirous of quitting his station, on whatever account, is to apply for permission to the Governor in Council, and, except in emergent cases of indisposition, is not to leave his station until such permission shall have been obtained. The letter of application is to specify the purpose for which the leave of absence is required; the period for which it is desired; *and the name of the register, or senior assistant on the spot, to whom the charge of the offices of judge and magistrate will devolve, if not otherwise provided for.*

Reference to be made to the Court of Sudder Adawlut and Foujdarry Adawlut

The Governor in Council will determine, in every instance, whether to delegate the duties of *Judge and Magistrate* to the *register and senior assistant*, or to appoint any other person thereto.

Second. The Governor in Council, on receipt of the above-mentioned applications, will cause reference to be made to the Sudder Adawlut and Foujdarry Adawlut to ascertain the state of the public business depending before such *Judge or Magistrate*, and whether the leave of absence desired can be conveniently granted or otherwise. The Governor in Council will determine, in every instance wherein he may grant leave of absence to the *Judge and Magistrate* to quit his station, whether to delegate the temporary execution of the duties of *Judge and Magistrate to the register or senior assistant* on the spot; or to appoint any other person by a special commission thereto; or to make other provision for carrying on such part of the business of the station, civil and criminal, as cannot be postponed, according to the urgency and circumstances of the case. The result of this determination will be immediately communicated to the *Judge and Magistrate*, and his *register and assistant, or any other person appointed to act for him;* and notice of it is to be given at the same time to the Courts of Sudder and Foujdarry Adawlut, *and the Provincial Courts of Appeal and Circuit, within whose jurisdiction the Zillah Court of the Judge and Magistrate to whom leave of absence may be granted is situated.*

To whom his determination will be communicated

To whom *Zillah* Judges and Magistrates are to report their departure from, and return to their stations

Third. The *Zillah Judges and Magistrates* to whom leave of absence may be granted, are to report their actual departure from their stations, as well as their return thereto, to the Governor in Council, the Courts of Sudder and Foujdarry Adawlut, *and the Courts of Appeal and Circuit within whose jurisdiction their respective courts may be situated.*

* By Sec. xxxix., Reg. X., 1816, such parts of this section as relate to the Magistrate were specially declared applicable to the Criminal Judge only, whose duties are now discharged by the Subordinate Judge and Principal Sudder Ameen.

A.D. 1802. REGULATION III.

[FRAMED UPON REGULATION IV., 1793, OF THE BENGAL CODE.]

A REGULATION *for receiving, trying, and deciding suits or complaints declared cognizable in the Courts of Adawlut established in the several zillahs immediately subject to the Presidency of Fort St. George:* PASSED *by the Governor in Council of Fort St. George, on the* 1st *January*, 1802.

THE following rules are enacted for receiving, trying, and deciding suits or complaints declared cognizable in the Courts of Adawlut established in the several zillahs.

For exceptions in soldiers' suits, See Sec. II, Reg. VIII., 1817.

II. No complaint is to be received but from the plaintiff, nor any answer to a complaint but from the defendant, or their respective vakeels duly empowered. Nor is any person to be permitted to do any act, or to be heard vivâ voce in any stage of a cause, excepting the plaintiff or defendant, or their vakeels or witnesses.

Only plaintiffs or defendants, or their vakeels duly empowered, to be allowed to prefer or defend a suit.

No other persons excepting the witnesses of the parties to be heard vivâ voce in a cause.

III. Every complaint that may be presented to the *Court of Adawlut of any zillah*, is to state precisely the matter of complaint. If it be concerning a zemindarry, or an independent or a dependent talook, or any landed property being lakheraje (except from the payment of revenue to Government), or malguzarry (subject to the payment of revenue to Government), it is to state the amount of the annual produce of the land according to the most accurate estimate which the claimant may be able to procure. To obviate all doubts respecting what is meant by the annual produce of lakheraje and malguzarry lands, it is declared to be the aggregate of the sums that may have been paid under the Regulations by the dependent talookdars, under-farmers, and ryots, on account of the year in which the claim may be preferred, and that would be payable by them, were the claimant to be put into possession of the lands during that year.

What a complaint preferred to a *Zillah* Court is to contain.

If it is for malguzarry or lakheraje land, the annual produce is to be specified.

What is meant by the annual produce.

If the complaint is for a house, garden, tank, or any real property, not being malguzarry or lakheraje land, or any valuable thing—or relating to marriage or caste—or for damages for any injury, it is to state, according to the nearest estimate, the exact sum of money, or the amount in which the plaintiff may be endamaged. The complaint is also to specify the name of the person complained against, the time when the cause of action arose, and is to be signed by the complainant, or his vakeel duly authorized. The complaint is to be signed and numbered, and dated in the order in which it may be received, by the judge of the court, and is to be registered in a book by a native officer of the court, whose particular duty it shall be to copy and register complaints. Every complaint, answer, reply, and rejoinder is to be written in the Persian, or in the languages and character of the country wherein the court may be held, and the parties are to be permitted to deliver their pleadings in whichever of those languages and characters they may think proper.

If for any other property or money, or damages, the amount or value or the sum in which the party may be endamaged.

Complaint to specify the name of the defendant and when it arose, and is to be signed by the party or his vakeel.

Judge to sign, number, and date the complaint.

Complaint to be entered in a book by a native officer.

In what language the complaint, answer, reply, and rejoinder are to be written.

IV. [Rule to determine whether a suit instituted in a Zillah Court would be appealable to the Sudder Adawlut.]—*Superseded by Act III.*, 1843.

Court how to proceed upon a complaint cognizable by it being preferred to it.

To issue a *summons*.

Contents of the *summons*.

V. Upon any person, either by himself or his vakeel duly appointed, preferring a written complaint, on account of any matter declared cognizable by the *Zillah Courts of Adawlut*, to the proper *Zillah* Court, the court is to issue [a *summons* upon the defendant. This is to contain a short account of the nature of the demand, and to require the defendant either to accompany the officer who may be deputed to serve the *summons*, to appear in person before the court, or to deliver to him good and sufficient security to appear and answer to the complaint on the day appointed either in person or by vakeel. The person who may become security for the appearance of the defendant is further to bind himself to be responsible for the personal attendance of the defendant whenever it may be required by the court, and in the event of his not being able to produce him either whilst the suit is depending, or at any time before the final decree in the cause is executed, to be answerable for such sum as may be adjudged against the defendant. The summons is to be served on the defendant by the nazir, or his inferior officer, if he can be found, and in the event of his not giving the required security, the nazir or officer is to take his person into custody, and bring him before the court. The nazir is to return the *summons* on the day appointed, with an indorsement specifying in what manner he has executed it.] If the defendant shall appear either in person or by vakeel, the court is to fix a day according to its discretion for him to answer to the complaint, and, if it shall deem it reasonable so to do, may at any time allow the defendant a further period for delivering his answer.

Modified by Secs. ii. & iv., Reg. II., 1811.

Nazir to return the *summons* on the fixed day with an indorsement how it has been executed.

Upon the defendant appearing, court to fix a day for his answering

[If the defendant shall not give the security above mentioned, he is to be committed.]—*Superseded by Section II., and by Clause* 1, *Section IV., Regulation II.*, 1811.

Plaintiff to reply to defendant's answer.

What the reply is, and what it is not, to contain.

When the defendant has delivered in his answer to the complaint, the plaintiff is to reply to it on the next court day. The plaintiff shall not introduce in his reply any matter not contained in his complaint. He shall either acknowledge the answer of the defendant to be true, or simply and shortly deny the truth of such of the facts in the answer as he intends to dispute. Or simply deny the truth of all the facts contained in it, or the competency of the answer.

Defendant to rejoin to the plaintiff's reply.

What the rejoinder is, and what it is not, to contain.

The defendant is to rejoin to the reply on the same day. He shall not introduce in his rejoinder any matter not contained in his answer; he shall simply deny the truth of the reply of the plaintiff, or the parts of it which he means to dispute, and aver the truth or competency of his own answer; and no further pleadings whatever are to be admitted in the cause.

Cases in which the plaintiff is to be permitted to prefer a supplemental complaint.

Defendant to be allowed to deliver an answer to the supplemental complaint.

Plaintiff and defendant to be permitted to reply and rejoin.

[But if from mistake, inadvertence, or other cause, the plaintiff shall have omitted to insert in his complaint any thing material to the suit, the court, on the omission being represented either by the plaintiff or his vakeel, is to allow the plaintiff to prefer a supplemental complaint, in which he is to state the matter omitted. The defendant is to be allowed to deliver an answer to the supplemental complaint on a day to be fixed for that purpose. And the plaintiff and defendant are to reply and rejoin in the same manner as on the original complaint, but no other. In like

Modified by Cl. 3, Sec. vii., Reg. XV., 1816.

manner, if the defendant, from mistake, inadvertence, or other cause, shall have omitted to insert in his answer any thing material to his defence, the court upon his representing the omission, either in person or by his vakeel, is to permit the defendant to deliver in a supplemental answer. The plaintiff and defendant are to reply and rejoin in the same manner as on the original answer.] But no more than one supplemental complaint, or one supplemental answer, is to be received by the court.

Cases in which the defendant is to be allowed to deliver a supplemental answer.

Plaintiff and defendant to reply and rejoin.

Only one supplemental complaint or answer to be admitted.

[Register to enter rejoinder in default of defendant doing so.]—*Superseded by Clause 2, Section VII., Regulation XV.*, 1816.

Modified by Secs. vii., x., & xii., Reg. XV., 1816.

VI. [When the rejoinder has been filed,] the court, either immediately, or on a fixed day (eight days' notice of which is to be given to the parties) [as soon after the pleadings are closed as the business of the court will permit, is to examine the truth of the complaint or claim by the *oaths* of the parties, if they mutually consent to that mode of examination, and of the witnesses who may be produced by them, if they have any witnesses to produce.]

When the courts are to proceed to the examination of the merits of the suit.

VII. To procure the attendance of witnesses,* the *Zillah* Courts, on the requisition of the plaintiff or defendant, or their respective vakeels, are to issue a summons to the witnesses whom the parties may name (provided they may not be Hindoo or Mahomedan women of a rank or quality which, according to the manners and customs of the country, would render it improper to compel them to appear in a court of justice), specifying at whose request the summons may have been issued, and requiring them to appear in the court on a day to be named in the summons, and there to depose concerning the matter in dispute between the parties. If a witness so summoned shall not attend on the day appointed, or attending, shall refuse to give evidence or to subscribe his deposition as hereafter required, the judge, in the first case, if it shall be proved to his satisfaction *on oath* that the witness was material to the cause, is to issue an order to the nazir to seize and bring the witness before the court, and is to impose on such witness, not having attended, or refusing to give evidence, a fine not exceeding five hundred *Arcot* rupees, and to commit him to close custody, until he shall consent to give his evidence and sign his deposition. If a witness who may attend pursuant to a summons shall have incurred any expense in consequence of his being required to appear, the court is to award to him such sum for his charges as may appear to it reasonable, whether he be examined or not. If the sum so awarded shall not be paid immediately, or secured to the witness to the satisfaction of the court, the party at whose requisition the witness may have been summoned is not only to lose the benefit of his testimony, but the court, after the decree in the cause shall be passed, is to confine such party until he shall discharge the sum awarded to the witness. The *Zillah* Courts are to administer to parties consenting to be examined on *oath*, and to witnesses, such *oaths* as may be considered most binding on their consciences, according to their respective religious persuasions.

How the attendance of the witnesses of the parties is to be procured, provided they be not women of the rank or caste herein mentioned.

What the summons is to contain.

How witnesses so summoned are to be dealt with if they shall not appear, or if they shall appear and refuse to give evidence or subscribe their depositions.

Court empowered to award to witnesses appearing pursuant to the summons such sum for their expenses as may appear to it reasonable.

Expense to be paid by the party summoning the witness.

Consequences attending his not paying such expense as required, and the court how to enforce the payment.

What *oaths* to be administered to parties or witnesses.

[What oaths and declarations shall be administered to Hindoo and Mahomedan witnesses.]—*Superseded by Act V.*, 1840.

* Respecting the competence of witnesses, see Act XIX., 1837.

Depositions of witnesses to be reduced into writing, in the Persian language and character, or in that of the district, or language in which the parole evidence was given.

The deposition of every witness who may appear in court is to be taken vivâ voce in open court, in the language in which he is most conversant; and shall be reduced into writing in the Persian, or in the language of the country in which the court may be held. Where the witness shall desire it, his deposition shall be reduced into writing, in the language in which his parole evidence was given. The deposition is to be subscribed by the witness, with his name or mark.

See Sec. xxii., Reg. VII., 1809.

Exhibits and written evidence to be produced in open court at the trial.

Such exhibits and evidence, if disputed, to be duly proved by witnesses, whose depositions are to be reduced to writing.

Exhibits how to be marked and referred to in the depositions proving them.

Exhibits proved by witnesses not present in court, to be marked and referred to in the same manner, and the date on which they may be read in court to be indorsed upon them.

Every exhibit or written evidence (excepting exhibits that may be proved by such absent witnesses as are hereafter mentioned) is to be produced in open court at the trial; and if disputed, is to be duly proved by the examination of witnesses *sworn* as above directed, whose depositions are in the same manner to be reduced into writing and signed. Every exhibit is to be marked with some letter or number to identify it, and the letter or number is to be referred to in the deposition proving it. All exhibits proved by witnesses not present in court, are in the same manner to be marked and referred to in the depositions proving them, and are to be indorsed and minuted as having been read at the time they may have been read in the court.

Court may dispense with the personal appearance of Hindoo or Mahomedan women of a certain rank.

How the evidence of such women is to be obtained.

In the event of any witness being a Hindoo, or a Mahomedan woman of a rank or quality which according to the customs and manners of the country would render it improper to compel her to appear in a court of justice, the *Zillah* Courts of Adawlut are authorized to commission three creditable women, who are to be sworn to execute the commission truly and faithfully, [*to administer either an oath, or the prescribed declaration to persons of the rank, caste, or quality before mentioned* (*according to the discretion of the judge and the religion of the witnesses*), *and*] to examine the witnesses on written interrogatories, to be delivered to them by both parties, or their vakeels, if both parties shall desire to examine the witnesses.

See Act VII., 1841.

Superseded by Act V., 1840.

[Rules regarding examination of absent witnesses.]—*Repealed and new rules enacted by Act VII.*, 1841.

Personal attendance of parties or witnesses, residing out of the jurisdiction of the court, and at a greater distance than fifty coss, how to be procured if necessary.

But if the personal attendance of a party in a suit, or a witness (provided the party, or witness, be not a woman of a rank or quality which according to the customs and manners of the country would render it improper to compel her to appear before a court of justice), who may be resident at any distance whatever beyond the limits of the jurisdiction of the court, shall be deemed by the judge trying the cause to be indispensably necessary, he is to address the judge of the court in the jurisdiction of which the person whose attendance is required may reside, requesting him to order him to attend; and the judge so addressed is directed to comply with the requisition, without further delay than may be necessary, in the event of the attendance of such person before the court of the judge to whom the application may be made being indispensable, in consequence of his being either a party or a witness in a suit depending before the court.

Judge how to proceed in the event of his rejecting exhibits, or written evidence that may be offered.

If any exhibit or written evidence is offered to a *Zillah* Court, in a cause depending before it, and the judge of the court shall think it just and proper to reject it, he is to indorse upon it the word "Rejected," together with the names of the parties in the cause, and the name of the party who produced the document, the date on which it may be rejected, and his reasons for not admitting it (which may be written either upon the document rejected, or on paper to be annexed to it), and to subscribe

his name to the indorsement, and return the document with his reasons so written to the person who produced it.*

See Sec. xxix., Reg. IX., 1816, and Sec. ii., Reg. III., 1826.

Witnesses guilty of wilful or corrupt perjury to be committed to take their trial before the *Court of Circuit.*

VIII. If a witness or any person shall be guilty of wilful and corrupt perjury in any cause or matter depending in court, the judge is immediately to commit the offender to close custody, to take his trial before the *Court of Circuit of the division in which the offence may be committed.*

When the court is to give judgment.

Decree of the court how to be executed in cases not appealable.

Modified by the 4th and following clauses of Sec. xiv., Reg. XV., 1816.

IX. When the parties have been heard, and the witnesses on both sides examined, and the exhibits received and considered, the judge is to give judgment according to justice and right; and is to order costs to be paid to the party in whose favour the decree may be made. [The court is then, in cases not appealable, to cause the decree to be executed,] if it be for a zemindarry, independent or dependent talook, or other estate or real property, by causing possession of the property to be delivered to the person to whom it may be decreed; if it be for personal property, or a sum of money, by causing the specific thing to be delivered, or the value of it, or the sum of money decreed, to be levied by the public sale by auction of a sufficient portion; or, if requisite for the satisfaction of the decree, the whole of the lands, houses, and all effects, either real or personal, belonging to the party against whom the judgment may have been given, or by the attachment of his person, or, where it may be necessary, both by the sale of his property and effects and the attachment of his person.

Monthly allowances to be paid to defendants confined at the instance of plaintiffs.

To whom and when the allowance is payable.

Nazir to report to the judge, in the event of the plaintiff omitting or refusing to pay the allowance for one month.

Judge how to proceed upon such report.

As to repayment, see Sec. xii., Reg. II., 1811.

X. If the defendant in a suit in a *Zillah* Court shall be committed to close custody at the instance of the plaintiff, either whilst the suit is depending or after the decree shall have been passed, the judge at the time of the commitment of the defendant is to make an order on the plaintiff for the payment of whatever monthly allowance he may think reasonable for the subsistence of the defendant, upon a consideration of his rank and situation in life, and the circumstances of the plaintiff. The allowance is not to exceed four annas, nor be less than one anna per day; and is to be made payable to the nazir, who is to give monthly receipts for it to the plaintiff, dated on the day on which the money may be paid. The first payment is to be made immediately upon the confinement of the defendant; and every subsequent payment at the expiration of the next and following month, calculating from the day on which the defendant may be confined. If the plaintiff shall neglect, or refuse, to pay the prescribed allowance for the space of one month after any payment may become due, the nazir is to report the omission or refusal in writing, under his signature, to the judge. Upon receipt of the report, the judge is to cause it to be notified to the plaintiff by a writing [*in the Persian, and*] in the language of the country in which the court may be held, to be fixed up in some conspicuous place in the court-room, that if he shall not within one month after the date of the notice, pay the sums in arrear, together with the allowance for one month in advance, the court will release the defendant. If the plaintiff shall not make the payments required by the notice, the court is accordingly to discharge the defendant

* The rules of this section are extended to criminal trials by Reg. I., 1824.

Plaintiffs not to pay any allowance to defendants confined for disobedience to the orders of the court.

from custody. Plaintiffs are not to be required to pay any allowance to defendants who may be committed to custody for disobedience to an order of the court.

Zillah Courts to transmit to the Board of Revenue and the collector of the zillah, a copy of every decree which they may pass, and of every decree that may be transmitted to them by the *Provincial Court of Appeal*, to the Sudder Adawlut or be enforced.

XI. *First.* That the quinquennial register of landed property paying revenue to Government may be kept complete, the *Zillah* Courts are strictly enjoined to transmit to the collector of the *zillah*, and the Board of Revenue, a copy of every decree that they may pass, or which may be sent to them to be enforced, by the *Provincial Courts of Appeal*, or the Sudder Adawlut, regarding any zemindarry, independent talook, or other land paying revenue immediately to Government, or in anywise concerning the possession of such land. The judge is to transmit the copy of the decree within ten days after he may pass or receive it. The decree is to be attested with the signature of the judge and the seal of the court; and is to be accompanied with a short abstract of it, specifying the date of the decree, the names of the pergunnah or pergunnahs, the talook or talooks, the turf or turfs, the village or villages, or the portions of each, which may be decreed; the name or names of the person or persons last in possession; the person or persons to whom the lands may be decreed; and, if the land be decreed to two or more persons, the shares awarded to each person.

What the abstract is to contain.

Of what particular decrees copies are to be so transmitted.

Second. The decrees regarding malguzarry land, to be transmitted, as above directed, to the collector of the *zillah* and to the Board of Revenue, are such decrees only as affect the proprietary right in, or possession of the land.

Suits of plaintiffs who neglect to proceed in them for six weeks to be dismissed, unless they can shew good cause for not having proceeded.

Judge to record upon the proceedings his reasons for the exercise of the powers vested in him by this section.

XII. If a plaintiff shall at any time neglect to proceed in his suit for six weeks, the suit is to be dismissed, unless he can shew good and sufficient cause to the court for not having proceeded in it; and the court is to award to the defendant the whole or such part of the costs as he may have incurred in the suit, according as it may deem equitable. The judge is to record upon the proceedings his reasons at large for dismissing the suit of a plaintiff, or allowing him to prosecute it, after he shall have neglected to proceed in it for six weeks.

Superseded by Acts XXIX of 1841 and XVI of 1845.

Court how to proceed in case a defendant cannot be found, or absconds, or acts so that the process of the court cannot be served upon him.

What the writing so fixed up is to contain.

XIII. If a defendant against whom a *summons* may issue shall abscond, or is not after diligent search to be found, or shall shut himself up in his own, or in any house or building, or retire to any place so that the process cannot be served upon him, and the nazir shall return that on such account he has not been able to serve or execute the process, the judge is to cause a writing, in the [*Persian, and*] language of the country where the court may be held, to be stuck up in some conspicuous part of the room in which the court may assemble. The writing is to contain a copy of the *summons*, and a notice that if the party shall not appear on a day to be fixed (which shall not be less than fifteen days from the time that the *summons* may be fixed up), the court will proceed without further notice to try and determine the cause without the appearance or answer of the defendant. The court is likewise to order a copy of the *summons* and notice to be fixed up, with all practicable despatch, on the outer door of the house in which the defendant may have usually dwelt; or in some conspicuous place in the village, or other place in which he may have

See Cl. 1. Sec. XI Reg. XII of 1816

Modified by Secs. iii, iii., and iv., Reg. II., 1811.

generally resided. The nazir is to return the order with an indorsement, stating at what times and places the *summons* and notice may have been fixed up. The return of the nazir is to be filed in the court, and to form a part of the record of the trial. If the defendant shall not appear at the time limited in the notice, or if a defendant who may have been served with a *summons* shall not appear, or if having appeared, he shall refuse to give answer, or make other default, or admit the truth of the plaintiff's bill of complaint, the court on examining the allegations of the plaintiff only, and the depositions of his witnesses, is to decree and give judgment in the same manner as if the defendant had appeared, answered, and entered into proof.

Nazir to return how he has executed the process.

Nazir's return to be filed.

Cases in which the court is to give judgment on the allegations and evidence of the plaintiff only.

Modified by Secs. ii. and iv., Reg. II., 1811.

XIV. If a defendant, for whose appearance security may have been taken, shall not appear, or having appeared, shall refuse to give answer, the plaintiff is permitted to institute a suit against the sureties on their engagement, and is to be entitled to recover from them whatever he may prove to be due to him from the defendant; or he may proceed against the defendant in the same manner as defendants are directed to be proceeded against, who have been served with a *summons* and have not appeared, or have refused to give answer.

Sureties for defendants not appearing or refusing to give answer liable to be prosecuted as principals.

Option given to the plaintiff to prosecute the security or to proceed against the defendant as herein directed.

XV. Every process, rule, order, or decree of the *Zillah* Courts (with the exception contained in this section) is to be immediately served or executed without application to any person, or the interference of any individual whomsoever, according to the requisition of it, within the limits of the special jurisdiction of each court. But in every case in which the defendant shall be a Hindoo or Mahomedan woman of a rank or quality which, according to the customs and usages of the country, would render it improper to compel her to appear in an open court of justice, the judges of the *Zillah* Courts are not to issue any compulsory process against her to compel her to appear and make answer; but are to issue a summons requiring her to appear in person, or by vakeel, at a certain time, to be named in the summons, in the *Zillah* Court, and answer to the complaint, and abide by the orders which the court may think proper to pass in the cause. The summons is to be directed to the nazir of the court, and is to contain a short account of the nature of the demand or complaint, with a notice, that if the defendant shall not appear, as required by the summons, at the time specified in it, or having so appeared, shall not answer the complaint at the time which may be fixed by the court, or make any other default, the court will proceed to try and determine the cause in the same manner as if the defendant had appeared, answered, and done what she is authorized or required to do, in defence of the suit. The summons is further to command the nazir to deliver a copy of it to the dewan, or some principal servant of the defendant. The nazir is not to have recourse to compulsion to enforce the summons, but is to serve it in the manner herein directed, and no other. The nazir is to return the summons on the day appointed for the appearance of the defendant, with an indorsement, specifying in what manner he has executed it, and if he has not executed it, the reason why it has not been executed. If the defendant should appear in person, or by vakeel, the court is to fix a certain day, according to its discretion, for her to answer to the complaint, and appoint

Process of the courts to be served according to the requisition of it, without application to any person or the interference of any individual.

Exception to the rule made in favour of defendants who may be women of the description herein specified.

How such women are to be summoned when defendants.

Summons to be directed to the nazir.

What it is to contain.

The nazir to serve the summons in the manner herein mentioned, and no other.

Nazir to return how he has served the summons.

Court how to proceed if the defendant should appear in conformity to the summons.

a day for the parties to deliver in their pleadings; and the court is to try and determine the cause in the same manner as suits instituted against persons not being women of the above-mentioned description. Upon the summons being issued, if the dewan or other principal servant of the defendant shall abscond, or otherwise act so that the summons cannot be served upon him, or shall not after diligent search and inquiry be found, the judge, upon the return of the summons, and proof being made before him, *on oath*, of the fact, is to proceed against the defendant, in the same manner as he is directed to proceed against a defendant who, after diligent search, cannot be found, or shall have absconded, or otherwise acted so that he could not be served with a summons. If a female defendant, on whom no summons can be served, after the prescribed notice has been issued, shall not appear as required, or appearing, shall neglect or refuse to answer, or make other default, or admit the truth of the complaint, the court, on examining the allegations of the plaintiff only, and receiving the depositions of his witnesses, is to decree and give judgment in the same manner as if the defendant had appeared, answered, and entered into proof.

Court how to proceed in case the principal servant of the defendant cannot be served with the summons and the defendant shall not appear in person or by vakeel.

By what law the suits herein described are to be decided.

Law officers to expound the law.

Cases may be referred for opinion to the law officers of the superior courts.

XVI. *First.* In suits regarding succession, inheritance, marriage, and caste, and all religious usages and institutions, the Mahomedan laws with respect to Mahomedans, and the Hindoo laws with regard to Hindoos, are to be considered as the general rules by which the judges are to form their decisions. The Mahomedan and Hindoo law officers of the courts are to attend to expound the law of their respective persuasions, in cases in which recourse may be required to be had to it. The *judge of the Zillah* Court may further refer cases for the opinion of the law officers of the superior courts, through the medium of the judges of those courts; but no reference is to be made by the judges to any individual not acting in a public and responsible capacity; yet this shall not prohibit parties in a suit submitting law opinions, quoting, or referring to authorities in support of their claim.

Extended by Reg. III., 1828.

See Sec. xvii. of this Reg.

Executors to *Hindoos*, Mahomedans, and others, not being disqualified landholders, may take charge of the estate of the deceased and proceed in execution of their trust without any application to the judge or other officer of Government.

Courts of justice prohibited to interfere in such cases, except on a regular complaint.

To proceed on such complaint according to the regulations, taking

*Second.** In all cases of a [*Hindoo,*] Mussulman, or other person subject to the jurisdiction of the *Zillah* Courts, having at his death left a will, and appointed an executor or executors to carry the same into effect, and in which the heir to the deceased may not be a disqualified landholder, subject to the superintendence of the Court of Wards, the executors so appointed are to take charge of the estate of the deceased, and proceed in the execution of their trust according to the will of the deceased and the laws and usages of the country, without any application to the judge of the Court of Adawlut, or any other officer of Government, for his sanction; and the courts of justice are prohibited to interfere in such cases, except on a regular complaint against the executors for a breach of trust, or otherwise, when they are to take cognizance of such complaint, in common with all others of a civil nature, under the general rule contained in Section V., Regulation II., 1802, and proceed thereupon according to the regulations; taking the opinion of their law officers upon

* The provisions of this clause declared not applicable to Hindoos by Reg. V., 1829. In respect of succession to property, and collection of debts due to representatives of deceased persons not British subjects, see Acts XIX. and XX., 1841—extended to Madras by Act VIII., 1842.

any legal exception to the executors, as well as upon the provision to be made for the administration of the estate, in the event of the appointed executor being set aside, and generally upon all points of law that may occur; with respect to which the judge is to be guided by the law of the parties, as expounded by his law officers, subject to any modifications enacted by the Governor in Council in the form prescribed by Regulation I., 1802.

the opinion of their law officers on all points of law.

Third. In case of a Hindoo, Mussulman, or other person subject to the jurisdiction of the *Zillah* Courts, dying intestate, but leaving a son or other heir, who by the laws of the country may be entitled to succeed to the whole estate of the deceased, such heir, if of age, and competent to take the possession and management of the estate, or if under age or incompetent, and not under the superintendence of the Court of Wards, his guardian or nearest of kin, who by special appointment, or by the law and usage of the country, may be authorized to act for him, is not required to apply to the courts of justice for permission to take possession of the estate of the deceased, as far as the same can be done without violence; and the courts of justice are restricted from interference in such cases, except a regular complaint be preferred; when they are to proceed thereupon according to the general regulations.

See Secs. xx. to xxii., Reg. V., 1804, as extended by Sec. iii., Reg. X., 1831.

Heirs of persons dying intestate entitled to succeed to the whole estate (and not subject to the Court of Wards) or their guardians not required to apply to courts of justice for permission to take possession of the estate as far as can be done without violence.

And courts of justice restricted from interference without a regular complaint.

Fourth. If there be more heirs than one to the estate of a person dying intestate, and they can agree amongst themselves in the appointment of a common manager, they are at liberty to take possession, and the courts of justice are restricted from interference, without a regular complaint, as in the case of a single heir; but if the right of succession to the estate be disputed between several claimants, one or more of whom may have taken possession, the judge, on a regular suit being preferred by the party out of possession, shall take good and sufficient security from the party or parties in possession, for his or their compliance with the judgment that may be passed in the suit; or, in default of such security being given, within a reasonable period, may give possession, until the suit may be determined, to the other claimant or claimants, who may be able to give such security; declaring, at the same time, that such possession is not in any degree to affect the right of property at issue between the parties, but to be considered merely as an administration to the estate for the benefit of the heirs who may, on investigation, be found entitled to succeed thereto.

More heirs than one to the estate of an intestate may appoint a common manager and take possession as in the case of a single heir.

But if the right of succession be disputed, the judge, on a regular suit, to take security from the party in possession.

Or in default of such security, may put the other claimants giving it in possession.

Such possession not to affect the right of property.

Fifth. In the event of none of the claimants to the estate of a person dying intestate being able to give the security required by the preceding clause, and in all cases wherein there may be no person authorized and willing to take charge of the landed estate of a person deceased, the judge within whose jurisdiction such estate may be situated (or in which the deceased may have resided, or the principal part of the estate may lie, in the event of its being situated within two or more jurisdictions) is authorized to appoint an administrator for the due care and management of such estate, until, in the former case, the suit depending between the several claimants shall have been determined, or, in the latter case, until the legal heir to the estate, or other person entitled to receive charge thereof as executor, administrator, or otherwise, shall attend and claim the same; when if the judge be satisfied that the claim is well founded, or if the same be established after any inquiry that may appear necessary, the administrator appointed by the court shall deliver over the

In what cases the judge may appoint an administrator for the care and management of the estate of an intestate.

And when such administration is to cease.

estate to him, with a full and just account of all receipts and disbursements during the period of his administration.

Security to be taken from administrators appointed under this section;

And in what manner their allowance is to be fixed.

Sixth. In all instances of an administrator being appointed under this section, he is, previous to entering upon the execution of his office, to give good security for the faithful discharge of his trust, in a sum proportionate to the extent thereof; and the judge appointing him is authorized to fix for him (subject to the approbation of the Court of Sudder Adawlut, to whom a report is to be made in such instances) an adequate personal allowance to be paid out of the proceeds of the estate, and to be a percentage thereupon after deducting the expenses of management.

Judges how to proceed in cases of persons dying intestate, leaving personal property to which there may be no claimant.

Seventh. The judges of the *Zillah* Courts, on receiving information that any person within their respective jurisdictions has died intestate, leaving personal property, and that there is no claimant to such property, are to adopt such measures as may be necessary for the temporary care of the property, and to issue an advertisement, in the current language of the country, requiring the heir of the deceased, or any person entitled to receive charge of his effects, to attend for this purpose; such advertisement to be published on the spot where the property was found, *at the Adawlut Cutcherry of the zillah*, and, if ascertainable, at the dwelling-place of the deceased, or, if the deceased were an European, [*in the Madras Gazette;*] after which, should any person attend, and satisfy the judge of his title to the property, or to receive charge thereof as executor, administrator, or otherwise, the same is to be delivered up to him, on repayment of any necessary expense incurred in the care of it. Should no claim be preferred within the twelve months next ensuing, an inventory of the property, and report of the circumstances of the case, is to be transmitted to the Governor in Council for his orders.

Amended by Sec. v. Reg. IV., 1809.

Courts not to refer matters of fact to any person whomsoever with a view to passing a decree.

Exception to the rule.

The rule not to prevent references to the law officers on points of law.

References to the law officers to be made in writing. What they are to contain.

Answer on what paper to be written, and what it is to contain.

XVII. The judges of the *Zillah* Courts are strictly enjoined not to order, or allow of, a report of any matters of fact relating to any cause depending before them, with a view to the passing of a decree, to be made to them, by any officer of the court, or any other person, excepting in cases in which special authority for that purpose may be given to the courts by any regulation. This rule, however, is not to be construed to prevent a judge referring any question arising on the Mahomedan or Hindoo law to the cauzy or pundit of the court; respect being had to the law in which each is conversant. When a reference of this nature is deemed necessary, a statement of the facts on which the question of law may arise is to be made out in writing, and signed by the judge of the court, and delivered to the cauzy or pundit, for his opinion upon it. A blank is to be left for the answer of the law officer, on the same paper on which the question is stated, or on a paper firmly annexed to it. The answer is to be attested with the signature of the law officer; and the dates on which the questions may be stated to him, and the answer may be given, are to be specified.

Court may depute an ameen where local investigations may be necessary in disputes regarding real property.

To what points the ameen is to be sworn.

XVIII. In cases of disputed property regarding lands, houses, or their limits or boundaries, in which the court may deem a local investigation proper, the court is to appoint an ameen, who is to be *sworn* to make a true and faithful report to the court of the several matters which he may be directed to investigate, and not to take or receive, directly or

indirectly, from either party, any gratuity, reward, or consideration, besides the sum which may be allowed to him by the court. The ameen is to be ordered to make his report in writing, subscribed with his name, and to deliver it into court on a certain day, which is to be specified in his commission. The report is to be received by the court as evidence in the cause, with regard to the matters which the ameen may be commissioned to investigate, and no other. The court may order such sum to be paid to the ameen as may be thought reasonable for his trouble; and the amount is to be added to the costs, and paid by the person against whom the decree may be passed. But the court is to be careful that expenses are not unnecessarily incurred by the ameen by delay or other means.

Report to be made by the ameen duly attested by him on a certain day.

Court to order such sum to be paid to the ameen as it may judge adequate to his trouble.

By whom the sum awarded is to be paid.

Precaution to be observed by the courts in awarding such sums.

XIX. The plaintiff is to pay the charges of summoning the defendant, and his own witnesses, and of all process attended with expense which may be issued in his behalf, previous to the decision of the suit.

Plaintiff to pay in the first instance the expense of all process that may be issued in his behalf previous to the decision of the suit.

XX. The judges of the *Zillah* Courts are to order the causes depending in their respective courts to be brought on for trial, according to the order in which they may be filed, except in cases in which it may be otherwise directed by any regulation, or in which the judge may think it proper for special reasons, which he is to state at large upon the record of the trial, to bring on the cause before its turn. The *register* is to enter in a book the causes for the trial of which a day may be appointed by the judge; and on the day fixed, call on the causes for trial, in the order in which they may have been entered. A paper containing a list of the causes, and the day appointed for the trial of them, is to be fixed up, in some conspicuous part of the court-room, seven days previous to the day of trial.

For exceptions in soldiers' suits, see Sec. ii., Reg. VIII., 1817.

Suits to be brought on for trial in the order in which they may be filed.

Exception to the rule.

A paper specifying the causes for the trial of which a day has been fixed is to be stuck up in some conspicuous part of the court-room seven days previous to the trial.

XXI. All orders and process of the court which may be directed to be served or executed on any person, are to be written or printed in the [*Persian and*] language of the country where the court shall be held, and are to be sealed with the seal of the court, and signed by the judge. When a summons, or any process, is issued against a defendant, or a witness in a cause, or any other person who may not reside or be present at the place at which the court may sit, and for the serving or executing of which a peon or peons may be necessary, each peon is to be paid by the party in whose behalf the summons or process may issue, four annas per day for his subsistence; excepting in districts where custom may have fixed the subsistence-money of peons at a lower rate, in which case the lower rate, and no more, is to be paid. The name of each peon deputed to serve the process, the amount of his subsistence-money, and the number of days for which he is to receive it, are to be indorsed on the writing. No greater number of peons than two are to be deputed to serve or execute any process of the courts; and one peon only is to be sent, excepting in cases in which the judges may think two peons necessary.

See Sec. xv., Reg. XV., 1816.

In what language and character the process of the court is to be written.

Extended by Reg. I., 1832.

Modified by Act VI., 1836.

XXII. If any person shall be guilty of contempt of court in open court, or of undue arrogations of the authority of the court, or of illegal exertions of judicial authority in his own cause, the court is immediately to punish the offender by fining him in a sum not exceeding two hundred

Courts to fine persons guilty of contempt, arrogations of judicial authority, or illegal exertions of it in their own causes.

Arcot rupees, *and keeping him in custody until the fine shall be paid.* The courts are to regulate the amount of the fines which they may impose under this section according to the situation and circumstances in life of the offenders.

Zillah Court how to proceed against zemindars, independent talookdars, or other actual proprietors of land, or dependent talookdars who may resist their process.

Offender to be summoned to answer for his conduct.

Court how to proceed if the offender shall not obey the summons.

XXIII. If a zemindar, independent talookdar, or other actual proprietor of land, or a dependent talookdar, shall resist or cause to be resisted any process, rule, order, or decree of a *Zillah* Court, the court, on proof of the resistance being made *by oath* to its satisfaction, is to cause the offender to be summoned to answer to the charge. If the offender shall abscond, or shut himself up in his own or any house, or in any building, or retire to any place, so that he cannot be served with the summons, the court is to proceed against him in the manner directed with regard to other persons absconding or acting as above specified, so that they cannot be served with the process of the court. If the offender shall not appear within the prescribed time, or if he shall appear, and after receiving his answer to the charge, and hearing the evidence which he may produce in his defence, it shall be proved to the satisfaction of the court that he is guilty of the charge, the court is to decree that the offender shall, from the date of the decree, forfeit his zemindarry, talook, or other estate in which the resistance may have been made; or if the resistance shall have been made out of the limits of the estate of the offender, the zemindarry, talook, or other landed property that he may possess within the jurisdiction of the court the process of which may have been resisted. If the cause shall not be appealed to the *Provincial Court of Appeal* within the time limited for preferring appeals to *that court* in the established regulations, the court is immediately to forward a copy of its decree, and proceedings respecting the charge, to the Governor in Council. If the offender shall appeal to the *Provincial Court of Appeal* within the prescribed period, and the court should confirm the decision of the *Zillah* Court, and the cause shall not be appealable to the Sudder Adawlut; or if it shall be appealable, and the offender shall not lodge an appeal within the time limited for preferring appeals to that court in the established regulations, the *Provincial* Court is immediately to forward a copy of their decree and proceedings in the appeal, and of the decree and proceedings of the *Zillah* Court to the Governor in Council. If an appeal shall be received from the decision of the *Provincial* Court, and the Sudder Adawlut should confirm the decree of that court, they are immediately to transmit a copy of their decree and proceedings, and of the decrees and proceedings received from the *Provincial Court of Appeal*, to the Governor in Council. No appeal shall lie in this case to the Sudder Adawlut, unless the annual produce of the lands of the offender which may be adjudged forfeited (calculating according to the amount paid and payable to the offender by the dependent talookdars, under-farmers, and ryots, on account of the year in which the decree may be passed) shall exceed one thousand *Arcot* rupees. In the event of an appeal from the decree of the *Provincial* Court being presented to the Sudder Adawlut, and the admission or rejection of the appeal, depending upon the produce of the lands for the year before mentioned exceeding or falling short of one thousand *Arcot* rupees, the court of Sudder Adawlut is to order the *Provincial* Court to obtain the necessary information regarding the produce; and

Decree to be passed if the offender shall not appear, or shall appear and be proved guilty of the charge.

A copy of the decree to be sent to the Governor in Council, if the cause shall not be appealed in time.

If the offender should appeal, and the decision of the *Zillah* Court be confirmed, the *Provincial* Court to transmit a copy of the decree and proceedings to the Governor in Council, in the event of the offender not appealing to the Sudder Adawlut, or the cause being not appealable.

Sudder Adawlut how to proceed if the suit should be appealed to them, and they should confirm the decision of the *Provincial* Court.

Rule for determining from what decrees of the *Provincial* Courts passed under this section, an appeal is to lie to the Sudder Adawlut.

after receiving their report, admit or reject the appeal, according as they may deem equitable. It shall be at the option of the Governor in Council, after the receipt of a decree adjudging the estate of any person forfeited under this section, either to order it to be executed, or to commute the forfeiture for such fine as, upon a consideration of the situation and circumstances in life of the offender, he may think adequate to the offence for which the decree may be passed. In the event of the Governor in Council commuting the forfeiture for a fine, the court which shall have transmitted the decree and proceedings to him, upon receiving notice of the fine that he may impose, is to levy the amount of it by the same process as is prescribed for enforcing decrees of the court. In cases wherein a decree for the forfeiture of an estate or farm may be passed and transmitted to the Governor in Council, the decree in question shall not be deemed final until confirmed by the Governor in Council, and shall not be carried into execution until notice of his confirmation be received. In the event of the Governor in Council ordering the decree to be executed, the court is to issue a precept, under the seal of the court and the signature of the *register*, requiring the collector of the revenue of the zillah to depute an ameen, with a proper establishment of officers, whose allowances are to be specified in the precept, to sequester the lands and collect the rents and revenues. If the lands of the offender shall be deemed by the court too inconsiderable to admit of their being charged with the expense of an ameen, they are to direct a precept to be issued to the collector of the zillah, to order the nearest tehseeldar, or any other officer who may be employed under him in the business of the collections, to take charge of the lands. The officer is to perform the duties prescribed to ameens in such cases, and under the same restrictions and penalties.

If the lands are decreed forfeited, the Governor in Council may confirm the decree, or commute the forfeiture for a fine after he may receive the decree.

If the forfeiture is commuted for a fine, by what court and how it is to be levied.

Decree for the forfeiture of estates or farms not to be deemed final or carried into execution till confirmed by the Governor in Council, and notice of his confirmation be received.

If the decree is declared final, the court to issue a precept to the collector to sequester the lands.

XXIV. If the decree adjudging the lands of the offender forfeited shall be confirmed under Section XXIII., it shall be at the option of the Governor in Council either to confer the rights which the offender possessed in the lands on his heirs, upon their agreeing to make good all sums whatever that may be due from him to Government on account of the lands forfeited, and to pay the fixed public revenue assessed upon them; or if the property forfeited be a dependent talook, the revenue payable from it to the proprietor within whose estate it may be situated; or to order the lands to be disposed of at public sale, under the rules prescribed for the sale of lands so forfeited.

If the forfeitures should stand confirmed, the Governor in Council to confer the estate on the heirs of the offender, or to dispose of it at public sale.

XXV. *First.* If a farmer of land, holding a farm immediately of Government, shall resist, or cause to be resisted, any process, rule, order, or decree, which may at any time issue from any *Zillah* Court, on proof of the resistance being made by *oath* to its satisfaction, the court is to cause the offender to be summoned to answer to the charge. If the offender shall abscond, or shut himself up in his own or any house or building, or retire to any place, so that he cannot be served with the summons, the court is to proceed against him in the manner directed with regard to other persons absconding, or otherwise acting as above specified, so that they cannot be served with the process of the court. If the offender shall not appear within the prescribed period, or if he shall appear within the limited time, and after receiving his answer to the charge, and hearing the evidence

Zillah Courts how to proceed against persons holding farms of Government, who may resist their process.

Offender to be summoned to answer for his conduct.

Court how to proceed if the offender shall not obey the summons.

which he may have to produce in his defence, it shall be proved to the satisfaction of the court that he is guilty of the charge, the court is to decree the lease cancelled from the expiration of the revenue year of the district in which the decree may be passed. If the offender shall not appeal to the *Provincial Court of Appeal* within the time limited for preferring appeals to that court, the court is immediately to transmit to the Governor in Council a copy of the decree and of all the proceedings respecting the charge. If the offender shall appeal to the *Provincial Court of Appeal* within the prescribed period, and the court should confirm the decision of the *Zillah* Court, and the cause shall not be appealable to the Sudder Adawlut, or if it shall be appealable, and the offender shall not lodge an appeal within the time limited for preferring appeals to that court, the *Provincial* Court is immediately to forward a copy of their decree and proceedings in the appeal, and of the decree and proceedings of the *Zillah* Court, to the Governor in Council. If an appeal from the decision of the *Provincial* Court shall be admitted, and the Sudder Adawlut should confirm the decree of the *Provincial* Court, they are immediately to transmit a copy of their decree and proceedings, and of the decrees and proceedings received from the *Provincial Court of Appeal*, to the Governor in Council. An appeal shall not lie to the Sudder Adawlut unless the revenue payable to Government by the offender for the year in which the decree may be passed, on account of the lands the lease for which may be adjudged annulled, shall exceed one thousand *Arcot* rupees. It shall be at the option of the Governor in Council, after the receipt of a decree adjudging the lease of a farmer annulled under this section, either to order the decree to be executed, or to commute the forfeiture of the lease for such fine as, upon a consideration of the situation and circumstances in life of the offender, he may think adequate to the offence for which the decree may be passed; or if the offender shall not be desirous of being continued in his farm, to fine him as above prescribed, and compel him to retain the farm during the remainder of the lease; and to hold him and his surety responsible for the discharge of their engagements until the term of them shall expire. If a fine shall be imposed upon the offender, the court which shall have transmitted the final decree and proceedings to the Governor in Council, upon receiving notice of the fine, is to levy the amount of it by the same process as is prescribed for enforcing decrees of the court. In cases wherein a decree for the forfeiture of the lease of the offender may be passed and transmitted to the Governor in Council, the decree in question shall not be deemed final until confirmed by the Governor in Council, and shall not be carried into execution until notice of his confirmation be received. If the lease of the offender shall be annulled, and a balance shall be due from him to Government at the close of the year in which the lease may be cancelled, both he and his surety are to be held responsible for the payment of it, and the collector of the revenue of the zillah is empowered to proceed against them for the recovery of it, agreeably to the rules in that respect established. The offender is permitted to prosecute in the *Court of Adawlut of the zillah* in which the farm may be situated, the dependent talookdars, under-farmers, and ryots, in the lands included in the farm, for any arrears of rent or revenue that may be due from them to him on account of the period during which his lease remained in force.

A copy of the decree to be sent to the Governor in Council, if the cause shall not be appealed in time.

If the offender should appeal, and the decision of the *Zillah* Court be confirmed, the *Provincial* Court to transmit a copy of the decree and proceedings to the Governor in Council in the event of the offender not appealing to the Sudder Adawlut, or the cause not being appealable.

Sudder Adawlut, how to proceed if they should admit an appeal and confirm the decree of the court.

Rule for determining from what decrees passed under this section, an appeal is to lie to the Sudder Adawlut.

Option reserved to the Governor in Council to confirm the decree or commute it for a fine, and to compel the farmer to perform the conditions of his lease.

By what court, and how such fines are to be levied.

Decree not to be deemed final, or carried into execution till confirmed by the Governor in Council, and notice of his confirmation be received.

If the lease of the offender should be annulled, how balances due from him are to be recovered.

Farmers whose leases may be cancelled, how to recover balances.

Second. In all cases of resistance to the process of any *Zillah* Court, if the judge of the court whose process may have been resisted shall be of opinion that a fine to Government will be a more proper and adequate punishment for the offence than a forfeiture of the offender's estate or farm, under the provisions contained in this and Sections XXIII. and XXIV., he is authorized, instead of the decrees of forfeiture so directed, to adjudge the offender to pay such fine to Government as may appear proper, upon a consideration of his situation and circumstances in life, and the offence of which he may be convicted, as provided with regard to persons not being landholders or farmers of land, by Section XXVI., and subject to the provisions in that section for an appeal from the judgment of the court.

In what Cases a fine may be substituted for the judgment of forfeiture as directed by this and Sections xxiii. and xxiv.

XXVI. If any person, not being a zemindar, independent talookdar, or other actual proprietor of land, or a dependent talookdar, or a farmer of land holding a farm immediately of Government, shall resist, or cause to be resisted, any process, rule, order, or decree, which may at any time issue from the *Court of Adawlut established in any zillah*, on proof of the resistance being made by *oath* to its satisfaction, the court is to cause the offender to be summoned to answer to the charge. If the person for whom the summons may be issued shall abscond, or shut himself up in his own, or any house or building, or retire to any place so that he cannot be served with the summons, the court is to proceed against him in the manner directed with regard to other persons absconding, or otherwise acting as above specified, so that they cannot be served with the process of the court. If the offender shall not appear within the prescribed period, or if he shall appear within the limited time, and after receiving his answer, and hearing the evidence which he may have to produce in his defence, it shall be proved to the satisfaction of the court that he is guilty of the charge, the court is to adjudge the offender to pay such fine to Government as may appear to it proper, upon a consideration of his situation and circumstances in life, and the offence of which he may be convicted. If the offender shall not prefer an appeal to the *Provincial Court of Appeal* within the time prescribed for lodging appeals, the court is to proceed to levy the amount by the same process by which it is empowered to carry its decrees for sums of money into execution. If the offender should appeal to the *Provincial Court of Appeal* within the prescribed time, and the court should confirm the decision of the *Zillah* Court, the rules regarding appeals to the Sudder Adawlut, from the decisions of the *Provincial Courts of Appeal*, for sums of money, are to be held applicable to decisions which may be passed by the *Provincial* Courts under this section. If the *Provincial* Courts should confirm the decisions of the *Zillah* Court, and the offender shall not prefer an appeal to the Sudder Adawlut within the time prescribed for lodging appeals, the court is to proceed to levy the amount by the same process by which it is empowered to carry its decrees for sums of money into execution.

Zillah Courts, how to proceed against persons resisting process, who are not proprietors of land, talookdars, or farmers.

Offender to be summoned to answer for his conduct.

Court how to proceed if the offender shall not obey the summons.

Persons fined by any *Zillah* Court under this section to be allowed an appeal to the higher courts under the regulations.

See Sec. xv., Reg. XV., 1816.

XXVII. The judges of the *Zillah* Courts are to insert in their decrees the names of the witnesses whose depositions may have been taken, the title of every exhibit read in the cause, and the amount of the annual produce of the land, or the sum of money, or the value of the property or

What the decrees of the courts are to contain.

To be sealed with the seal of the court, and signed by the judge, and dated on the day on which they may be passed.

thing decreed. The decree is to be sealed with the seal of the court and signed by the judge, and dated on the day on which it may be passed.

[Rules respecting delivery or tender of copies of decree.]—*Rescinded by Section II., Regulation VI.*, 1828.

XXVIII. [Causes under one thousand rupees being not appealable, discretion given to zillah judge to take down depositions or not.]—*The jurisdiction in suits not exceeding one thousand rupees now resides in the Court of the Sudder Ameen, from whom an appeal lies to the Zillah Court under Section VIII., Act VII.*, 1843.

Form of security bond to be executed by the sureties for defendants required by Section v. of this regulation.

See Note at Sec. v.

XXIX. The following form of security-bond, or an instrument to the following effect, is to be executed by the sureties for the appearance of defendants in the *Zillah* Courts required by Section V. of this regulation:

"Whereas a suit has been instituted in the *Court of Adawlut of the zillah of* by plaintiff, against defendant; and whereas I , inhabitant of , have voluntarily become security for the appearance of the said defendant to answer to the above suit, and perform all such orders as may be passed thereupon, until the final decree on it shall have been carried into execution; I do therefore hereby engage and bind myself, my heirs and successors, that the said defendant shall appear in person, or by vakeel, to make answer to the plaint against him in the suit aforesaid on the , being the day on which his appearance has been required in the said *Zillah* Court; and further, that the said defendant shall personally attend at the said *Zillah* Court, whenever the same may be required by the judge thereof, at any time whilst the above suit is depending before the *Zillah* Court, or *Provincial Court of Appeal*, or Court of Sudder Adawlut; or before the final decree which may be passed thereupon by the above courts respectively shall be fully and completely carried into execution; in default of which, and in the event of my not producing the said defendant when called upon, I will be answerable for such sum as may be adjudged against him, and for the performance of whatever order or decree may be passed against him on the suit above mentioned."

A.D. 1802. REGULATION IV.

[FRAMED UPON REGULATION V., 1793, OF THE BENGAL CODE.]

A REGULATION *for establishing four Provincial Courts of Appeal, for hearing appeals from decisions passed in the several Zillah Courts; and defining their powers and duties, and prescribing rules for receiving and deciding upon appeals, and other causes of which they are declared to have cognizance:* PASSED *by the Governor in Council of Fort St. George, on the* 1*st of January*, 1802.

IT being essential to the due administration of justice, that an appeal should lie, in certain cases, from the decrees of the Zillah Courts, to a higher tribunal, which, from the number of its judges and the circumstances of its constitution, may be calculated to afford redress against unjust or erroneous decisions, whilst its situation in the province may at the same time admit of an easy and speedy reference; and it being further adapted to the abridgment of lawsuits and the advancement of justice, that a tribunal so constituted should possess original jurisdiction in particular cases, and be vested with a certain authority for the better regulation of the inferior courts, the following rules have been accordingly enacted.

II. [Establishment of four Provincial Courts.]—*Superseded by the abolition of the Provincial Courts under Act VII.*, 1843.

This oath is directed to be taken by the judges of the Sudder Adawlut. See Sec. v., Reg. IV., 1806.

Oath to be taken by the judges.

"I, A. B., appointed judge of the *Provincial Court of Appeal* for the division of ( ), solemnly swear that I will administer justice conformably to the regulations that have been or may be passed by the Governor in Council, according to the best of my ability, knowledge, and judgment, without fear, favour, promise, or hope of reward; that I will not receive, directly or indirectly, any present or nuzzer, either in money or effects of any kind, from any party or person whomsoever, on account of any suit to be instituted, or which may be depending, or has been decided in the *Court of Appeal* of which I am appointed a judge; that I will not knowingly permit any person or persons under my authority or in my immediate service to receive, directly or indirectly, any present or nuzzer, in money or effects of any kind, from any party or person whomsoever, on account of any suit to be instituted, or which may be depending, or has been decided in the court; that I will render a true and faithful account of all sums of money that may be paid into the court or disbursed from it; that I will not be concerned, directly or indirectly, in the purchase of goods or commodities in the British dominions under the Presidency of Fort St. George, for the purpose of

See Act XXI., 1837.

remitting money to Europe, or in any commercial transactions; and that I will not derive, directly or indirectly, any emoluments or advantages from my station, excepting such as the orders of Government do or may authorize me to receive.

" So help me God."

III. [Local jurisdiction of the Provincial Courts.]

IV. [Stations and sittings of the Provincial Courts.]

V. [Seal of the Provincial Court.]

Superseded by Act VII., 1843.

Provincial Courts to try cases referred to them by the Sudder Adawlut, and to order their decree to be enforced by the *Zillah* Courts.

VI. The *Provincial Courts of Appeal* are empowered to try and determine, in the first instance, any suit or complaint, or any matter whatever of a civil nature, which may be transmitted to them for that purpose by the Sudder Adawlut; [*and to order the decree which they may pass to be executed by the judge of the proper Zillah Court, in the same manner as the decrees of the Zillah Courts are directed to be enforced.*]

Superseded by Sec. xiv, Act VII, 1843

Cases in which the *Provincial Courts of Appeal* are empowered to refer original suits to the *Zillah* Courts to be tried and determined

VII. The *Provincial Courts of Appeal* are empowered to receive any original suit or complaint which may be cognizable in any *Zillah* Court within their respective jurisdictions, and to command the judge of such *Zillah* Court, by a precept, under the seal of the court and attested by the *register*, to receive the suit or complaint, and to proceed to hear and determine it; provided proof shall be previously made to *their* satisfaction, that the judge refused or omitted to receive or proceed in it. If the plaintiff shall refuse or neglect to proceed in the suit or complaint for the space of six weeks after the order of the *Provincial Court of Appeal* may be received by the *Zillah* Court, the judge is authorized to dismiss it, notwithstanding the order of the *Provincial Court of Appeal.* In such cases, the judge, within one week after the dismission of the suit, is to certify to the *Provincial Court of Appeal*, under his hand and seal of the court, that the suit or complaint has been dismissed, and the grounds of the dismission.

See Sec viii, Act VII, 1843

Suit or complaint to be dismissed if the party preferring it shall omit or refuse to proceed in it for six weeks.

Judge to notify the dismission of the suit to the *Provincial* Court

See Acts XXIX, 1841, and XVI, 1845

Cases in which the *Provincial* Courts may receive petitions respecting suits, or matters depending, or which may have been decided in any *Zillah* Court.

VIII. The *Provincial* Courts are empowered to receive any petitions respecting suits, or matters that may be depending, or have been decided in any *Zillah* Court within their respective jurisdictions; and provided it shall be proved, to their satisfaction, that the petition was presented, or that due means were used to effect its being presented to the judge, and that he refused or omitted to receive it and proceed on it; or, in the last-mentioned case, that undue means were used by any of the officers of the court to prevent the petition being presented; the court are empowered to issue a precept under the seal of the court, and attested by the *register*, commanding the judge to receive the petition, and to proceed respecting it, according to the regulations.

Provincial Courts, how to proceed with such petitions.

Courts of Appeal not to correspond with parties in suits, or any person respecting matter cognizable in the court.

IX. The *Provincial Courts of Appeal* are prohibited corresponding by letter with parties in suits on process, or matters depending before them, or coming within their cognizance. If a party in a suit, or any person amenable to the jurisdiction of the court, shall have any matter to repre-

For exceptions in respect of soldiers' suits, see Sec ii., Reg VIII., 1817

sent to the court, he is either to appear in the court in person, and represent the matter in writing, or make the representation in writing through an authorized vakeel. The court are to pass whatever order upon the representation may appear to them proper, consistently with the regulations; and to cause a copy of the order to be delivered to the person making the representation, or to his vakeel, under the seal of the court and attested by the *register*. The *Provincial Courts of Appeal* are also prohibited corresponding by letter with the judges of the *Zillah* Courts, respecting any cause or matter before them, or upon any matters whatever on which they may not be specially empowered so to correspond. When they shall have occasion to issue an order to the judge of any *Zillah* Court, or require information from him on the subject of any suit or matter before them, the court are to issue a precept, under their seal and the signature of the *register*, commanding the judge to execute the order, or requiring him to furnish the information; and the judge to whom the precept may be directed is to perform the exigence of it, or return good and sufficient reason why he has not done it.

Provincial Courts of Appeal prohibited corresponding by letter with the judges of the *Zillah* Courts.

X. [Proceedings to be taken if a Zillah Judge is charged with corruption.]—*Rescinded by Sec. II., Reg. II.*, 1810.—*See Act. XIII.*, 1843.

XI. In suits or complaints which may be transmitted by the Sudder Adawlut to be tried and determined by the *Provincial Courts of Appeal*, and also in appeals from the decisions of the *Zillah* Courts (except as to hearing witnesses and receiving evidence), the *Provincial* Courts are to proceed in the same manner, and with the like powers and authority, and subject to the same restrictions, limitations, and exceptions, as are prescribed to the *Zillah* Courts.

By what rules the *Provincial* Courts are to proceed in cases referred to them for trial in the first instance, and in appeals preferred to them from the decisions of the *Zillah* Courts.

XII. *First.* [Appeals lie from the Zillah Court to the Provincial Court.]—*Superseded by Section VIII., Act VII.*, 1843. [Petition of appeal how to be presented.]—*Superseded by Section VIII., Regulation XV.*, 1816.

Second. The petition is to state (respect being had to the matter decreed) the annual produce of the lands; whether lakheraje or malguzarry; the sum of money or the value of the property which may be decreed; the name of the person in whose favour the decree may be given; the court in which it may have been passed; when it was made; what was decreed by it, and whether the decree has been executed; and is to assign some cause, special or general, for appealing from the decision.

What the petition of appeal is to contain.

Modified by Sec. viii., Reg. XV., 1816.

[Rule for determining the right to appeal.]—*Superseded by Section VIII., Act VII.*, 1843.

Third. [Petition to be accompanied with copy of decree or declaration of its refusal.]—*Superseded by Section VIII., Regulation XV.*, 1816, *and Act XXXV.*, 1837.

Fourth. [*The petition is to be presented to the court in which the decree appealed against may have been passed, within three calendar months after the day on which the decree may be given.*] But it shall nevertheless be permitted to such person to prefer his petition of appeal after the ex-

Period limited for preferring appeals.

Superseded by Sec. viii., Reg. XV., 1816, and Sec. viii., Act VII., 1843.

Cases in which the *Provincial* Court may admit appeals after the limited time.

Court to record their reasons for admitting an appeal, after the limited time.

piration of the [*three months**]; and the court is authorized to admit the appeal, provided the petitioner can shew just and reasonable cause to their satisfaction for not having preferred it within the limited period. But whenever a court shall admit an appeal which may be preferred to them after the limited time, they are to enter upon the record of the trial their reasons at large for admitting the appeal.

* Substitute 30 days, under Sec. viii., Act VII., 1843.

Execution of decrees appealed from, to be suspended during the appeal under the prescribed security.

Fifth. In all authorized cases of appeal from the decrees of the *Zillah* Court to the *Provincial* Courts, the court in which the decree appealed from may have been passed shall suspend the execution of it during the appeal, provided the party against whom the decree may have been passed shall, at the time of preferring his appeal, or within such reasonable period afterwards as may be fixed for the purpose, deliver the securities required by this and the next following clause; viz. if the decree be for a zemindarry, talook, or other land, or for a house or other real property, good and sufficient security in a sum equal to one year's produce thereof; and in all other cases, good and sufficient security in an amount equal to the sum of money or value of the thing decreed, for the performance of the decree which may be passed upon the appeal.

Modified by Secs. xi. and xii., Reg. XII., 1809, and Sec. xiv., Reg. XV., 1816.

Parties desirous of appealing, to deliver good security for the costs that may be awarded on the appeal, including fees of pleaders.

No appeal to be admitted without such security.

Presenting a petition of appeal, without the required security, declared not to preserve the right of appeal.

Sixth. In all authorized cases of appeal, the party desirous of appealing is, with his petition of appeal, to deliver good and sufficient security for the payment of the costs that may be awarded on the appeal, [*including the fees of his pleader, in case he shall intend to employ any on his appeal.*] Without such security, or without proof of inability to find the same as required with respect to paupers by *Regulation XIV.*, 1802, no appeal shall be admitted. It is hereby declared, that the presenting a petition of appeal, without the security required by this clause, before the expiration of the time limited for appealing, shall not be considered as preserving to the appellant his right of appeal, as far as respects the limitation in question.

Superseded by Act I., 1846.

Substitute Reg. VII., 1818, and see Sec. x. of that Reg.

[Provisions respecting security for pleaders' fees.]—*Superseded by Section II., Act I.*, 1846.

When the appellants have entered into the securites required, the judge is to make the indorsement herein required, on the petition to transmit to the *Provincial Court of Appeal.*

To notify to the appellant that the proceedings will be certified to the *Provincial* Court in fifteen days; and that if he shall not proceed in the appeal in six weeks from the date of the petition being filed in the *Provincial* Court, it will be dismissed.

Courts of Appeal may in particular cases require further security during appeals, if, on application of the parties, the security taken appear insufficient.

Seventh. When the securities above required shall have been entered into, the judge of the *Zillah* Court is immediately to indorse on the petition, in his own handwriting, the day of the month and year in which it was presented, and sign it with his name, and cause to be written in the margin of the record, immediately opposite to the decree of the court, the word "Appealed," and transmit the petition to the *Provincial Court of Appeal.* The court is at the same time to direct notice in writing to be given to the appellant, that, within fifteen days, the proceedings held in the cause appealed will be certified to the *Provincial Court of Appeal;* and that if he shall not proceed in the appeal within six weeks after the petition of appeal shall have been filed in the *Provincial* Court, his appeal will be dismissed, unless he shall shew reasonable cause to the satisfaction of the *Provincial* Court for not having proceeded in it.

See Acts XXIX., 1841, and XVI., 1845.

Eighth. Notwithstanding the appellants in causes depending before the *Provincial Courts of Appeal* may have entered into the securities required of them by the above clauses in this section, those courts are further authorized, in cases wherein, from delay in the decision, the securities originally so given may afterwards appear insufficient (in respect to the period of time the cause has been pending, or is likely to remain still undecided), on the application of the respondent or respondents in all such cases, to require any additional security which they may deem necessary to

Modified by Secs. xi. and xii., Reg. XII., 1809, and Sec. xiv., Reg. XV., 1816.

secure the party who may have obtained a judgment in his favour from any loss by the non-execution of such judgment during the appeal; and in default of such further security being given within a reasonable period to be fixed for that purpose, the courts are empowered to direct the judgment in question to be carried into execution in like manner as if no securities had originally been given by the appellant; provided, that in such cases good and sufficient security, as prescribed by the regulations, be given by the respondent previous to his being put in possession of the property in litigation. The supplemental security required in this clause, as necessary to maintain a depending appeal, is carefully to be distinguished from the securities originally necessary to warrant the cause being appealed; the supplemental security being only demandable by the *Provincial* Court after a lapse of time; the original securities being requirable by the *Zillah* Court previous to the petition of appeal being admitted.

See Sec. xiii., Reg. XV., 1816.

In default of such further security being given by appellants, the judgment to be executed:

Provided the prescribed security be given by the respondent.

See Sec. viii., Reg. II., 1811.

Ninth. As cases may occur wherein neither the appellant nor the respondent may be able to give the prescribed securities for staying the execution of the decree, or for the execution thereof in favour of the plaintiff, it is hereby enacted, that in all such cases, the property adjudged shall be held in attachment during the appeal, or until such time as one of the parties may be able to give the required securities, by the collector of the district wherein the land may be situated, at the expense of the party who may be ultimately declared entitled thereto, under the provisions in that respect established. No attachment, however, is to be made by any collector in the cases herein supposed, until he shall receive a precept requiring him to make the same from the *Zillah* Court wherein the original judgment in the cause may have been passed; which precept shall state, specifically, the property to be included in the attachment, and shall require the collector to continue the same till ordered to be withdrawn by a further precept from the court, to be issued either on the prescribed securities being given by one of the parties, or on the cause being finally determined.

See Sec. xi., Reg. XII., 1809, and Cl. 2, Sec. v., and Sec. vii., Reg. II., 1811.

Provisions for cases wherein neither the appellant nor respondent may be able to give the prescribed securities.

The collectors to hold the adjudged property in attachment in such case.

Tenth. Where a petition for an appeal to the *Provincial* Court shall be rejected, on whatever ground, by a *Zillah* Court, such court shall, on the court day next ensuing, or as soon afterwards as may be practicable, cause the appellant to be furnished with a copy of their order for rejecting the appeal; and the appellant shall be still at liberty to present his petition of appeal to the *Provincial Court, in the mode and under the restrictions prescribed by this section;* provided that such petition set forth the previous application made to the *Zillah* Court, and the rejection of the appeal by that court, and be accompanied by a copy of the order of rejection, or by a declaration that such copy was applied for *ten days after the same was passed*, and not obtained.

Zillah Courts, on rejecting a petition of appeal to the *Provincial* Court, to furnish appellant with a copy of their order for such rejection.

And appellant at liberty to present his petition of appeal to the *Provincial* Court under restrictions prescribed.

See Sec. v., Reg. XV., 1816.

See Act XXXV., 1837.

Eleventh. [Where the appellant does not comply with the foregoing rules, court to execute the decree.]—*Superseded by Clause* 4, *Section XIV., Regulation XV.*, 1816.

Twelfth and *Thirteenth.* [Admission of summary appeals.]—*Rescinded by Clause* 1, *Section V., Regulation XV.*, 1816.

XIII. The judge of the *Zillah* Court, within fifteen days after the receipt of the appeal, is to certify under his hand and the seal of the

Record including original papers in the cause appealed to be

transmitted to the *register to the Provincial Court* in fifteen days after the receipt of the appeal.

Copies of all the original papers transmitted, attested by the serishtadar, to be deposited amongst the records of the court.

Copies to be deemed records and to be received in evidence. Copies of original papers to be sent to the *Provincial* Court, where the originals cannot be sent for the reasons herein specified.

court, to the *register of the Provincial Court of Appeal*, the record duly made up and authenticated; including the original complaint, answer, replication, and rejoinder of the parties; the original depositions, exhibits, and every original paper read in the cause. Previous to transmitting the above-mentioned papers to the *Provincial Court of Appeal*, he is to cause true and faithful copies of all the originals, authenticated by the serishtadar or head native officer of the court, to be made out and deposited in the *Zillah* Court in lieu of the originals. The copies are to be deemed records of the court, and are to be received in evidence in any other *Zillah* Court. In cases where any original deposition, or other original proceedings or matter whatsoever, shall have been previously entered in any *Zillah* Court, in any book which may likewise contain proceedings in other distinct causes, or any other matter, so that such original papers cannot be transmitted to the *Provincial Court of Appeal* without the other proceedings or matters, the judge of the *Zillah* Court, within the time, and in the manner before directed, is to certify a true and authentic copy of such original papers, and that the original of each copy transmitted is so entered in such book. But he is nevertheless to transmit the original complaint, the original answer, or other separate pleadings of the parties, and the original exhibits which shall have been delivered in, or produced by the parties and read in the course of the cause before the court, if they be forthcoming, in the manner before required. In cases where any original paper shall have been mislaid or lost, and a copy of it shall have been entered in any book or proceedings, the copy is to be deemed the original; and the judge is to transmit a copy of it to the *Provincial Court of Appeal*, and in like manner to certify it, and that the original, after due search, cannot be found.

Recorded copies of original papers not forthcoming to be deemed the originals, and copies of them to be forwarded and certified as herein required.

Any private transfer or mortgage of land, or other real property, during appeals, declared null and void, in the event of the judgment against such property being confirmed on the appeal.

XIV. *First.* In all instances wherein the plaintiff in a *Zillah* Court may obtain a judgment in his favour for land or other real property, and the defendant appealing therefrom to a *Provincial* Court may be left in possession of the property under the security prescribed by the regulations, any private transfer of such property by sale, gift, or otherwise, or any mortgage thereof which might be made by such appellant during the appeal to the *Provincial* Court, or during a further appeal to the Court of Sudder Adawlut, or [*Governor General in Council*], would, in the event of the judgment against him being confirmed on the appeal, be of course, and is hereby declared to be, null and void; but as malguzarry lands (lands assessed with the public revenue) are in all cases, by whomsoever possessed, held answerable for the public revenue assessed thereon; and as, according to the general rules established for the collection of the public revenue, such lands, and also lakheraje lands and other property appertaining to the same estate, may become liable to sale by Government from the neglect of the party in possession to discharge the revenue due therefrom; by which sale, in cases of appeal, the party to whom the property of the lands is ultimately adjudged might, notwithstanding, be deprived of it, unless he purchased the same at the public sale; to obviate all doubt respecting the right of the party making the purchase in such cases, it is hereby declared, that whenever any land or other property for which a judgment may have been obtained in any of the established courts of justice, but which, during an appeal from such judgment by the party cast,

See Sec. xi., Reg. XII., 1809, and Sec. xiii., Reg. XV., 1816.

Substitute Her Majesty in Council, under Reg. VIII., 1818.

Provision for the public sale of the property adjudged, in such cases, on account of the public assessment.

Rights of respondent in such cases, who may purchase the property sold by Govern-

may be left in the possession of the appellant, shall, while such appeal is pending, or before the ultimate judgment thereon be put in execution, be sold by Government to make good an arrear of the public revenue due from the appellant, and shall be purchased by the respondent, the party so purchasing, in the event of such property being finally adjudged to him on the appeal, shall be entitled to recover from the appellant, so left in possession, the full amount of his purchase-money, and of all expenses attending the purchase so made by him, with interest thereon at the rate of twelve per cent. per annum, in addition to any other sum which may be adjudged due to him on account of the profits arising from the land or other property in question anterior to the sale. It is further declared, that in the case above supposed, if the respondent shall not have purchased the land or other property sold by Government to make good an arrear of public revenue due from the appellant left in possession thereof, and if the ultimate judgment on the appeal be in favour of such respondent, he shall be entitled to recover from the appellant left in possession the amount of the purchase-money paid for the property so sold and adjudged to the respondent, with interest thereon, at the rate of twelve per cent. per annum, in addition to any other sum which may be adjudged to him on account of the profits arising from the property so sold anterior to the sale of it; unless the property in question shall have been directly or indirectly purchased by the appellant himself, or in his behalf, at the public sale; in which case, on clear proof thereof being made by the respondent to whom such property may be ultimately adjudged, he shall be entitled to the possession thereof, and to all profits arising therefrom, as may be directed by the decree in the case, notwithstanding the fictitious sale supposed.

ment, and ultimately adjudged to him on the appeal.

Rights of respondent in such cases, who may not purchase the property sold by Government and ultimately adjudged to him on the appeal.

Second. The principles of the rules contained in the preceding clause, and in Clause Eighth, Section XII. of this Regulation, are to be considered equally applicable to cases in which the plaintiff in a *Zillah* Court may be put in possession of land or other property adjudged to him, during an appeal in consequence of the defendant's failing to give the securities prescribed; and, generally, to all cases in which the possession of property may be transferred by the decree of any court of justice, from which decree an appeal may be depending in a superior court; whether a *Provincial Court of Appeal*, or the Court of Sudder Adawlut, or the [*Governor-General in Council*,] in the cases for which an appeal to *him* is provided by *Regulation V.*, 1802.

See Sec. xi., Reg. XII., 1809, and Sec. xiii., Reg. XV., 1816.

Substitute Her Majesty in Council, under Reg. VIII., 1818.

Principles of the preceding clause and Clause Eighth, Section xii., declared to extend to all similar cases, whether the original plaintiff or defendant, or the appellant or respondent, be left in possession of the property during an appeal to the *Provincial* Courts, or to the Sudder Adawlut, or to *Governor-General in Council.*

XV. [Language of processs issued by Provincial Court.]—*Superseded by Section XV., Regulation XV.*, 1816. [Service of such process.]—*Superseded by Sections XIV. and XV., Act VII.*, 1843. [Zillah judge making false returns may be suspended by Sudder Adawlut.]—*Rescinded by Section II., Regulation V.*, 1828.

XVI.* In all cases in which process either to a party or witness, and all process whatever, and every rule or order for the execution of any decree or final order, or any order relating to a cause depending in a *Provincial*

Process of the *Provincial* Courts how to be served by the judges of the *Zillah* Courts.

* The rules in this section remain in force as applicable to decrees of which the execution may be referred to the Subordinate Judges and Principal Sudder Ameens under Sec. xiv., Act VII., 1843; but they are superseded as respects "all other process," which, by Sec. xv. of Act VII., 1843, are ordered to be served by the officers of the new Zillah Courts.

To return the process executed, or reasons why it has not been executed.

Court of Appeal, which may be directed by such court to the judge of a *Zillah* Court, the judge to whom the process may be directed is to execute the order contained in the process, rule, or order, and return it so executed within the time limited, or return to the *Provincial* Court good and sufficient reason why it has not been served or executed. When any process, rule, decree, order for the execution of any decree or final order, or any order whatever, shall be transmitted by the *Provincial Court of Appeal* to the judge of a *Zillah* Court to be served or executed, the return to such process, rule, order, or decree is to be made by the judge of the *Zillah* Court, either by indorsement on the process, rule, order, or decree, or to be written on a paper firmly annexed to it; and if the return be made in the last-mentioned manner, there is to be an indorsement on the process, rule, order, or decree, referring the *Provincial Court of Appeal* to the return contained on such annexed paper; and the judge is to cause a copy of the process, rule, order, or decree, together with the return to it, to be deposited amongst the records of his court. And in all cases in which the *Provincial Court of Appeal* shall transmit any order or process to be served or executed by the judge of a *Zillah* Court against a party in a cause, and the party on whom it is to be served or executed is not, after diligent search, to be found, or shall have absconded or shut himself up in his own, or any house or building, or retired to any place so that the process cannot be served upon him, the judge to whom the process is directed is to cause to be stuck up in some conspicuous part of the room in which the court may be held, a writing in the [*Persian language, and*] language of the district in which the court may be held, containing a copy of the order or process, and a notice that if the party shall not obey the exigence of it within the time limited, the *Provincial Court of Appeal* will, without further notice, process, or order, proceed, ex parte, to hear, try, and determine the cause to which such process or order may relate; and the judge is likewise to cause a copy of such writing to be stuck up with all practicable despatch on the outer door of the house in which the party may have usually dwelt, or in some conspicuous place in the village in which he may have usually resided, and to return to the *Provincial Court of Appeal*, in the manner before directed, how he has executed the process.

Form and manner in which the return is to be made.

Judge to cause a copy of the process and return to be deposited amongst the records of the court.

Judge how to proceed in case any such process cannot be served upon the party in consequence of his absconding or otherwise avoiding it.

Judge to fix up a writing in his court-room and at the place of residence of the party.

What the writing is to contain.

Modified by Sec. xv., Act VII., 1843.

XVII. [Provincial Court to proceed ex parte when the Zillah Court reports that the party has evaded service of the process.]—*Superseded by Section XV., Act VII.*, 1843. *See Sec. XIII., Reg. III.*, 1802, *and XI. of this Reg.*

Cases in which the *Provincial Courts of Appeal* are empowered to take new evidence in appeals, or to refer them back for further evidence to the *Zillah* Courts.

XVIII. The *Provincial Courts of Appeal* are empowered, in cases of appeals in which it shall appear to them that the original suit has not been sufficiently investigated in the *Zillah* Court, or for any other cause that may be deemed reasonable by the *Provincial* Court, either to receive such further evidence as they may think necessary for the just determination of the suit and give judgment upon it, or to refer the suit back to the *Zillah* Court in which it originated, accompanied by such special directions to the judge, with regard to the new evidence he is to receive respecting it, as may be deemed by the court most conducive to justice, and the convenience of the parties and witnesses. But in every case in

which the *Provincial* Courts may exercise the power above vested in them by this section, they are to enter upon the record of the trial their reasons for having exercised it. In cases in which the court may judge it proper to receive such further evidence themselves, they are empowered, according as they may deem most conducive to justice (respect being had to the nature of the cause and the evidence), either to examine the witnesses to be produced, vivâ voce, in open court; causing the witnesses to be first *sworn*, and their depositions to be reduced into writing, and signed by the deponents respectively.

Provincial Courts to state their reasons upon the record of the trial whenever they may exercise the powers above vested in them. Courts empowered to hear evidence in the cases above specified vivâ voce.

[Rules for the examination of witnesses by the register of the Provincial Court.]—*Superseded by the discontinuance of the office of register, except to the Sudder Adawlut.*

Modified by Act V., 1840.

Modified by Act VII., 1841.

XIX. The *Provincial Courts of Appeal* may dispense with the *oaths* of such descriptions of witnesses as the *Zillah* Courts are authorized to exempt from taking of *oaths*, on their signing the declarations in open court which are required to be subscribed by such witnesses in the *Zillah* Courts. Where witnesses may be women of the description specified in Section VII., Regulation III., 1802, or shall reside out of the jurisdiction of the court, and at a distance from it exceeding fifty coss, the court may grant such commissions as the *Zillah* Courts are authorized to grant for the examination of such witnesses upon similar occasions. And the *Provincial Courts of Appeal* may issue such commissions to creditable women, and send such letters to the judges of the *Zillah* Courts for the examination of witnesses, in the cases in which the judges of the *Zillah* Courts are authorized to send such commissions and letters.

Cases in which the *Provincial* Courts may dispense with the *oaths* of witnesses,

Or direct their evidence to be taken by commission.

See Secs. vii., viii., and xxii., Reg. III., 1802.

XX. If a witness duly summoned shall not attend, or attending shall refuse to be *sworn* or give evidence, or to subscribe his deposition; or if such witness or any person shall be guilty of wilful or corrupt perjury in a cause depending in the court, or any contempt of court in open court, the *Provincial Court of Appeal* are to proceed with such witness or person in the same manner as the *Zillah* Courts are authorized to deal with witnesses or persons in like manner offending.

Provincial Court how to proceed where witnesses do not attend, or refuse to be sworn or to give evidence, or sign their deposition, or any persons are guilty of contempt of court, or perjury.

See Acts XXIX. of 1841 and XVI., 1845.

XXI. If the appellant in an appeal, filed in the *Provincial Courts of Appeal*, shall not proceed in the appeal for six weeks, the appeal is to be dismissed, unless the appellant shall shew reasonable cause to the satisfaction of the court for not proceeding in it; and the court may, if they shall deem it equitable so to do, award to the respondent costs of suit. But in all such cases, the court are to enter at large upon their proceedings the grounds upon which they may permit or refuse to allow the appellant to proceed.

Court to dismiss appeals if the appellants omit to proceed in six weeks without shewing sufficient cause for the omission.

Reasons for the dismission of the appeal to be recorded.

For exceptions in respect of soldiers' suits, see Sec. ii., Reg. VIII., 1817.

XXII. In suits that may be referred by the Sudder Adawlut to the *Provincial Courts of Appeal*, and in appeals which may be preferred to those courts, no proceedings are to be held either on behalf of the plaintiff or defendant, or any acts whatever done, either on behalf of the appellant or respondent, except by the plaintiff or defendant, the appellant or respondent themselves, or by a vakeel admitted to plead in the court under the established regulations; nor by any vakeel before his

No persons to be heard vivâ voce in any stage of the cause excepting principals, their witnesses, or their vakeels duly empowered.

vukalutnamah shall have been filed in the court; and no persons excepting such parties or their witnesses, or such vakeels, shall be heard vivâ voce in any stage in the cause.

Provincial Courts how to proceed against zemindars, independent talookdars, or other actual proprietors of land, or dependent talookdars who may resist their process.

Offender to be summoned to answer for his conduct.

Court how to proceed if the offender shall not obey the summons.

Decree to be passed if the offender shall not appear, or shall appear and be proved guilty of the charge.

A copy of the decree to be sent to the Governor in Council if the cause shall not be appealable, or not be appealed in time.

Sudder Adawlut how to proceed if the suit should be appealed to them and they should confirm the decision of the *Provincial* Court.

In what cases such appeals are admissible

If the lands are decreed forfeited, the Governor in Council may confirm the decree or commute the forfeiture for a fine.

XXIII. *First.* If a zemindar, independent talookdar, or other actual proprietor of land, or a dependent talookdar, shall resist, or cause to be resisted, any process, rule, order, or decree which may at any time issue from a *Provincial Court of Appeal*, the court, on proof of the resistance being made by *oath* to their satisfaction, are to cause the offender to be summoned to answer to the charge. If the offender shall abscond, or shut himself up in his own, or any house, or in any building, or retire to any place, so that he cannot be served with the summons, the court is to proceed against him in the manner directed with regard to other persons absconding or otherwise acting as above specified, so that they cannot be served with the process of the court. If the offender shall not appear within the prescribed time, or if he shall appear, and after receiving his answer to the charge and hearing the evidence which he may produce in his defence, it shall be proved, to the satisfaction of the court, that he is guilty of the charge, the court are to decree that the offender shall, from the date of their decree, forfeit his zemindarry, talook, or other estate in which such resistance shall have been made; or if the resistance shall have been made out of the limits of the estate of the offender, the zemindarry, talook, or other landed property which he may possess within the jurisdiction of the *Zillah* Court to which the execution of the process resisted may have been committed. If the cause shall not be appealable to the Sudder Adawlut, or if it shall be appealable, and the offender shall not lodge an appeal within the time limited for preferring appeals to that court, in the established regulations, the *Provincial* Court is immediately to forward a copy of their decree and proceedings to the Governor in Council. If an appeal shall be received from the decision of the *Provincial* Court, and the Sudder Adawlut should confirm the decree, they are immediately to transmit a copy of their decree and proceedings, and of the decree and proceedings of the *Provincial Court of Appeal*, to the Governor in Council. An appeal shall not lie to the Sudder Adawlut, unless the annual produce of the lands of the offender which may be adjudged forfeited (calculating according to the amount paid and payable to the offender by the dependent talookdars, underfarmers, and ryots on account of the year in which the decree may be passed) shall exceed one thousand *Arcot* rupees. In the event of an appeal from the decree of the *Provincial* Court being presented to the Sudder Adawlut, and the admission or rejection of the appeal should depend upon the produce of the lands for the year before mentioned, exceeding or falling short of one thousand *Arcot* rupees, the Court of Sudder Adawlut is to order the *Provincial* Court to obtain the necessary information regarding the produce, and after receiving their report, admit or reject the appeal, according as they may deem equitable. It shall be at the option of the Governor in Council, after the receipt of a decree adjudging the lands of any person forfeited under this section, either to order it to be executed or to commute the forfeiture for such fine as, upon consideration of the situation and circumstances in life of the offender, he may think adequate to the offence for which the decree may

be passed. In the event of the Governor in Council commuting forfeiture for a fine, the court which shall have transmitted the decree and proceedings to the Governor in Council, upon receiving notice of the fine that he may impose, are to levy the amount of it by the same process by which they are directed to enforce decrees of the court.

If the forfeiture is commuted for a fine, by what court and how it is to be levied.

Second. In cases wherein a decree for the forfeiture of an estate or farm may be passed and transmitted to the Governor in Council, the decree in question shall not be deemed final until confirmed by the Governor in Council, and shall not be carried into execution until notice of his confirmation be received.

Decree not to be deemed final or carried into execution till confirmed by the Governor in Council.

Third. In the event of the Governor in Council ordering the decree to be executed, the court is to issue a precept under the seal of the court, and signature of the *register*, requiring the collector of the revenue of the zillah to depute an ameen, with a proper establishment of officers (whose allowances are to be specified in the precept), to sequester the lands and collect the rents and revenues. If the lands of the defaulter shall be deemed by the court too inconsiderable to admit of their being charged with the expense of an ameen, they are to direct a precept, to be issued to the collector of the zillah to order the nearest tehseeldar, or other officer employed under him in the business of the collections, to take charge of the lands. The officer is to perform the duties prescribed to ameens in such cases and under the same restrictions and penalties.

If the decree is declared final, the court to issue a process to the collector to sequester the lands.

XXIV. If the decree adjudging the lands of the offender forfeited shall be confirmed under Section XXIII., it shall be at the option of the Governor in Council either to confer the rights which the offender possessed in the lands on his heirs, upon their agreeing to make good all sums whatever that may be due to Government from the defaulter on account of the lands forfeited, and to pay the fixed public revenue assessed upon them; or, if it be a dependent talook, the revenue payable from it to the proprietor within whose estate it may be situated; or to order the lands to be disposed of at public sale.

If the forfeiture should stand confirmed, the Governor in Council to confer the estate on the heirs of the offender or dispose of it at public sale.

XXV. If a farmer of land holding a farm immediately of Government shall resist, or cause to be resisted, any process, rule, order, or decree which may at any time issue from a *Provincial Court of Appeal*, on proof of the resistance being made by *oath* to their satisfaction, the court are to cause the offender to be summoned to answer to the charge. If the offender shall abscond or shut himself up in his own or any house or building, or retire to any place so that he cannot be served with the summons, the court is to proceed against him in the manner directed with regard to other persons absconding, or otherwise acting as above specified, so that they cannot be served with the process of the court. If the offender shall not appear within the prescribed period, or, if he shall appear within the limited time, and after receiving his answer to the charge, and hearing the evidence which he may have to produce in his defence, it shall be proved to the satisfaction of the court that he is guilty of the charge, the court is to decree the lease cancelled from the expiration of the revenue year. If the cause shall not be appealable, or if it shall be appealable, and the offender shall not lodge an appeal within the time limited for preferring appeals to that court, the *Provincial* Court is immediately to

Provincial Courts how to proceed against persons holding farms of Government who may resist their process.

Offender to be summoned to answer for his conduct.

Court how to proceed if the offender shall not obey the summons.

Decree to be passed by the court if the offender shall not appear, or shall appear and be proved guilty of the charge.

A copy of the decree to be sent to the Governor in Council if the cause shall not be ap-

pealable or not be appealed in time.

Sudder Adawlut how to proceed if they should admit an appeal and confirm the decree of the court

Rule for determining from what decrees passed under this section an appeal is to lie to the Sudder Adawlut

Option reserved to the Governor in Council to confirm the decree or commute it for a fine and to compel the farmer to perform the conditions of his lease

forward a copy of the decree and proceedings to the Governor in Council. If an appeal from the decision of the *Provincial* Court shall be admitted, and the Suddor Adawlut should confirm the decree, they are immediately to transmit a copy of their decree, and of the decree and proceedings of the *Provincial Court of Appeal*, to the Governor in Council. An appeal shall not lie to the Sudder Adawlut, unless the jumma payable to Government by the offender for the year in which the decree may be passed, on account of the farm the lease for which may be adjudged annulled, shall exceed one thousand *Arcot* rupees. It shall be at the option of the Governor in Council, after the receipt of a decree adjudging the lease of a farmer annulled under this section, either to order the decree to be executed, or to commute the forfeiture of the lease for such fine as, upon a consideration of the situation and circumstances in life of the defaulter, he may think adequate to the offence for which the decree may be passed; or, if the offender shall not be desirous of being continued in his farm, to fine him as above prescribed, and compel him to retain the farm during the remainder of the lease, and to hold him and his surety responsible for the discharge of their engagements until the term of them shall expire.

By what court and how such fines are to be levied.

If the lease of the offender should be annulled, how balances due from him are to be recovered.

Farmers whose leases may be cancelled how to recover balances

If a fine shall be imposed upon the offender, the court which shall have transmitted the final decree and proceedings to the Governor in Council, upon receiving notice of the fine, is to levy the amount of it by the same process as is prescribed for enforcing decrees of the court. If the lease of the offender shall be annulled, and a balance should be due from him to Government at the close of the year in which the lease may be cancelled, both he and his surety are to be held responsible for the payment of it; and the collector of the revenue of the zillah is empowered to proceed against them for the recovery of it, agreeably to the rules in that respect established. The offender is permitted to prosecute in the *Court of Adawlut of the Zillah* in which the farm may be situated, the dependent talookdars, under-farmers, and ryots in the lands included in the farm, for any arrears of rent or revenue that may be due from them to him on account of the period during which his lease remained in force.

Court how to proceed against persons resisting process who are not proprietors of land, talookdars, or farmers

Offender to be summoned to answer for his conduct.

Court how to proceed if the offender shall not obey the summons

XXVI. If any person not being a zemindar, independent talookdar, or other actual proprietor of land, or a dependent talookdar, or a farmer of land holding a farm immediately of Government, shall resist, or cause to be resisted, any process, rule, order, or decree which may at any time issue from a *Provincial Court of Appeal*, on proof of the resistance being made by *oath* to its satisfaction, the court is to cause the offender to be summoned to answer to the charge. If the person for whom the summons may be issued shall abscond, or shut himself up in his own or any house or building, or retire to any place so that he cannot be served with the summons, the court is to proceed against him in the manner directed with regard to other persons absconding, or otherwise acting as above specified, so that they cannot be served with the process of the court. If the offender shall not appear within the prescribed period, or if he shall appear within the limited time, and after receiving his answer, and hearing the evidence which he may have to produce in his defence, it shall be proved to the satisfaction of the court that he is guilty of the charge, the court is to adjudge the offender to pay such fine to Government as may appear to it proper, upon a consideration of his situation and circumstances

in life, and the offence for which the decree may be passed. The rules regarding appeals to the Sudder Adawlut from the decisions of the *Provincial Courts of Appeal* for sums of money are to be held applicable to decisions which may be passed by the *Provincial* Courts under this section. If the fine shall not exceed five thousand *Arcot* rupees, or if it shall be above that sum, and the offender shall not prefer an appeal to the Sudder Adawlut within the time prescribed for lodging appeals, the court is to proceed to levy the amount by the same process by which it is empowered to carry its decrees for sums of money into execution.

Persons fined under this section allowed an appeal to the Sudder Adawlut under the rules for appealing from decisions passed for sums of money.

Court in what case and how to enforce such decrees.

Modified by 4th and following clauses of Sec. xiv., Reg. XV., 1816, and by Secs. xiv. and xv., Act VII., 1843.

See Sec. ix., Reg. III., 1802.

XXVII. The *Provincial Courts of Appeal* are empowered in every case in which a sum of money is decreed to be paid by a zemindar, independent talookdar, or other actual proprietor of land, to issue an order to the proper *Zillah* Court to execute the decree, in the same manner as the *Zillah* Courts are authorized to execute decrees, by which a sum of money may be decreed to be paid by any of the descriptions of persons above mentioned.

Provincial Courts empowered to order the *Zillah* Courts to enforce decrees for sums of money against proprietors of land by the same process as they enforce such decrees passed by themselves.

XXVIII. If a petition of appeal shall be preferred against the decision of any *Zillah* Court founded on an award of arbitration, it is to be dismissed with costs, unless it be fully proved to the satisfaction of the court, by the *oaths* of two credible witnesses, that the arbitrators have been guilty of gross corruption or partiality in the cause in which they have made the award.

Petitions of appeal from decisions founded on awards of arbitrators to be dismissed with costs.

Exception to the rule.

See Secs. iii., vii., and xxvii., Reg. III., 1802.

XXIX. The petition of appeal, pleadings, depositions, and exhibits in the *Provincial Court of Appeal*, are to be numbered, marked, dated, and signed by the *register* in the same manner as the complaint, pleadings, depositions, and exhibits are ordered to be numbered, marked, dated, and signed by the *register* in the *Zillah* Courts. The decrees are to be signed by the judges present in court when the decrees may be passed, and attested by the *register;* and copies so signed and attested are to be delivered to the parties.

See Sec. iii., Reg. VI., 1828.

Proceedings of the *Provincial* Courts how to be numbered, marked, dated, and signed.

Decrees to be signed by the judges and attested by the *registers*, and copies to be delivered to the parties.

XXX. [Provision for review of judgment in cases where decree of Provincial Court is final.]—*Rescinded by Section VI., Regulation XV.*, 1816.

XXXI. The *Provincial Courts of Appeal* shall not require the *Zillah* Courts to furnish them with translates of any proceedings or papers written in the country languages.

[Exception in respect of translations required for the Sudder Adawlut.] —*Rescinded by Section XII., Act VII.*, 1843.

Provincial Courts not to require translates of proceedings, &c.

XXXII. [How translations are to be made by the Provincial and Zillah Courts for the Sudder Adawlut.]—*Superseded by Section XII., Act VII.*, 1843.

XXXIII. [Rate of compensation for translations.]—*Rescinded by Section II., Regulation IV.*, 1828, *and Sec. XII., Act VII.*, 1843.

Courts how to act in cases for which no rule may exist.

XXXIV. *In cases for which no specific rules may exist, the Provincial Courts of Appeal are to act according to justice, equity, and good conscience.*

Interest to be allowed on sums adjudged by the decree appealed from, if confirmed, and litigious appeals to be punished by fine.

XXXV. Where the *Provincial Courts of Appeal* may confirm the decree of a *Zillah* Court, they are to adjudge interest at the rate of one per cent. per mensem on all sums receivable by the respondent under the decree passed in his favour, from the date of such decree; and are authorized to punish appeals which may appear to them litigious, by a fine to Government, proportionate to the condition of the party and the circumstances of the case.

XXXVI. [Depositions need not be written in unappealable cases.]—*Superseded by Section IX., Act VII.*, 1843.

A.D. 1802. REGULATION V

[Framed upon Regulation VI., 1793, of the Bengal Code.]

A Regulation* *for constituting a Sudder Adawlut, or Chief Court of Civil Judicature, for trying appeals from the decisions of the Provincial Courts of Appeal:* Passed *by the Governor in Council of Fort St. George, on the* 1*st of January*, 1802.

The courts established in the several zillahs having co-ordinate jurisdiction in respect to one another, it became necessary to establish in every province, Courts of Appeal, to receive appeals from their decisions, and to regulate their respective jurisdictions; but these Courts of Appeal being subject in their several instances to the occurrence of similar questions, as to their separate jurisdictions, it is requisite that a common superior should be erected, in which may be centred the powers of regulating and determining whatever relates to the Courts of Appeal. And in respect that cases brought before the different Provincial Courts might come to be determined by opposite rules of decision, it is further necessary that such decrees should be liable to be ultimately brought before the same tribunal, that the public law may be known and established, and similar cases determined by like principles. And to the end that the judges in the inferior courts, whether provincial or zillah, may at all times be amenable for the due discharge of their duties, it is further essential that the said superior tribunal should hold powers of receiving charges in respect to their conduct, and of causing the same to be regularly investigated and determined. In order to effect the above purposes, and further to enable the Sudder Adawlut to hold original jurisdiction in certain cases, the following rules have been enacted:—

* By Sec. iv., Reg. VIII., 1831, and Sec. x., Act VII., 1843, single judges may, with certain exceptions, exercise the powers of "the Court."

II. [Court to consist of the Governor and Council.]—*Rescinded by Section II., Regulation IV.*, 1806. *See Regulation III.*, 1807, *and Section IV., Regulation III.*, 1825.

III. The court is to use a circular seal two inches and a quarter in diameter, with an inscription to the following effect, in the Persian, Telinga, and Tamul language and character:—"The seal of the Sudder Adawlut." The court is to be held in a large and convenient room at Fort St. George, and to sit de die in diem, as the dispatch of business may require; and is empowered to make such reasonable adjournments as may be deemed expedient consistently with the business. No rule, order, proceedings, or decree is to be made but on court days, and in open court.

Seal of the court.

Court to be held at Fort St. George, to sit de die in diem, and to make reasonable adjournments.

No decree, order, &c., to be made but on court days and in open court.

IV. *First.* The Sudder Adawlut is empowered to receive any original suit or complaint which may be cognizable in any *Zillah* Court, and to command the judge of such court, by a precept under the seal of the court, and attested by the register, to receive the suit or complaint, and to proceed to hear and determine it, provided proof shall be previously made to their satisfaction, that the judge refused or omitted to proceed in it; and that the complainant applied to the *Provincial Court of Appeal of the division*, and that such court omitted or refused to command the judge to receive or proceed in it under Section VII., Regulation IV., 1802.

Cases in which the Sudder Adawlut is empowered to refer original suits or complaints to the *Zillah* Court.

See Acts XXIX., 1841, and XVI., 1845.

If the plaintiff shall refuse or neglect to proceed in the suit or complaint for the period of six weeks after the order of the Sudder Adawlut may be received by the *Zillah* Court, and notified to the complainant, the judge is authorized to dismiss it, notwithstanding the order of the Sudder Adawlut. In such cases, the judge, within one week after the dismission of the suit or complaint, is to certify to the Sudder Adawlut under his hand and the seal of the court, that the suit or complaint has been dismissed, and the grounds of the dismission.

Suit or complaint to be dismissed if the party preferring it shall refuse or omit to proceed in it for six weeks.

Judge to notify the dismission of the suit to the Sudder Adawlut.

Second. The Sudder Adawlut is vested with authority to receive any petitions respecting suits or matters that may be depending, or have been decided in any *Zillah* Court, and provided it shall be proved to their satisfaction that the petition was presented to the judge of such court, and that he refused or omitted to receive it and proceed on it; and that the complainant applied to the *Provincial Court of Appeal of the division*, and that such court omitted or refused to grant the precept specified in Section VIII., Regulation IV., 1802; the court are empowered to issue a precept under the seal of the court, and attested by the register, commanding the judge to receive the petition, and to proceed respecting it according to the regulations.

Cases in which the Sudder Adawlut may receive petitions respecting suits or matters depending, or which may have been decided in any *Zillah* Court.

Court how to proceed with such petitions.

See Sec. [illegible] Act VII., 1848.

V. *First.* The Sudder Adawlut is empowered to receive any appeal from a decision of a *Zillah* Court, which may be cognizable in any *Provincial Court of Appeal;* and to command such *Provincial* Court, by a precept under the seal of the court, and attested by the register, to receive the appeal and to proceed to hear and determine it, provided proof shall be previously made to their satisfaction that the *Provincial* Court omitted or refused to receive or proceed in it. If the appellant shall refuse or omit to proceed in the appeal for the period of six weeks after the order of the Sudder Adawlut may be received by the *Provincial* Court and

Cases in which the Sudder Adawlut is empowered to refer appeals to the *Provincial* Courts to be tried and determined.

See Acts XXIX., 1841, and XVI., 1845.

Appeal to be dismissed if the appellant shall omit or refuse to proceed in it for six weeks.

Provincial Court to notify the dismission of the appeal to the Sudder Adawlut.

notified to him, the *Provincial* Court is empowered to dismiss it, notwithstanding the order of the Sudder Adawlut. In such cases the *Provincial* Court, within one week after the dismission of the appeal, is to certify to the Sudder Adawlut under their hands and the seal of the court, that the appeal has been dismissed and the grounds of the dismission.

Cases in which the Sudder Adawlut may receive petitions respecting appeals or matters depending, or which may have been decided in any *Provincial* Court.

Sudder Adawlut how to proceed in such cases.

Second. The Sudder Adawlut is vested with authority to receive petitions respecting appeals or matters that may be depending, or have been decided in any *Provincial Court of Appeal;* and provided it shall be proved to their satisfaction that the petition was presented to the *Provincial* Court, and that they refused or omitted to receive it, the court is empowered to issue a precept under the seal of the court, and attested by the register, commanding the *Provincial* Court to receive the petition, and to proceed respecting it according to the regulations.

Sudder Adawlut not to correspond with parties in suits or any person respecting matters before the court or cognizable by it.

VI. The Sudder Adawlut is prohibited corresponding by letter with parties in suits, or process, or matters depending before them, or coming within their cognizance. If a party in a suit, or any person amenable to the jurisdiction of the court, shall have any matter to represent to the court, he is either to appear in the court in person and represent the matter in writing, or to make the representation in writing through an authorized vakeel; the court are to pass whatever order upon the representation may appear to them proper consistently with the regulations, and to cause a copy of the order to be delivered to the person making the representation, or to his vakeel, under the seal of the court and attested by the register.

For exceptions in respect of soldiers' suits, see Sec. ii., Reg. VIII., 1817.

In trying matters in the first instance, and in appeals, the Sudder Adawlut to be guided by the rules prescribed to the *Zillah* Courts.

Exceptions to the rule.

VII. In matters which the Sudder Adawlut may be empowered by any regulation to try in the first instance; and also in appeals that may be preferred to the court from decisions of the *Provincial Court of Appeal* (except as to hearing witnesses and receiving evidence), the court is to proceed in the same manner and with the like powers and authority, and subject to the same restrictions, limitations, and exception as are prescribed to the *Zillah* Courts.

See Sec. ii., Reg. XV., 1816.

See Sec. ix., Reg. XV., 1816.

VIII. [Proceedings to be taken against a judge charged with corruption.]—*Rescinded by Section II., Regulation II.*, 1810. *See Act XIII.*, 1843.

IX. [Court empowered to hear appeals from Provincial Councils preferred within one year, and from decisions of Board of Revenue in appeal from collectors.]—*No longer in operation. The judicial powers vested in the Revenue authorities by Regulations I. and II.*, 1803, *were abrogated by Section II., Regulation II.*, 1806.

X. *First.* [Appeals lie from the Provincial Court to the Sudder Adawlut.]—*Superseded by Section* [illegible], *Act VII.*, 1843. [Petition of Appeal how to be presented.]—*Superseded by Section VIII., Regulation XV.*, 1816.

To whom the petition of appeal is to be first presented.

Second. Where an appeal is intended, such appeal *shall be presented in the first instance* to the *Provincial* Court in which the decree appealed against may have been passed. The *Provincial* Court shall on the next

Modified by Sec. viii., Reg. XV., 1816.

court day, or as soon afterwards as may be practicable, admit the same under the conditions in that respect prescribed.

Third. The petition is to state (respect being had to the matter decreed), the annual produce of the land, whether lakheraje or malguzarry, the sum of money, or the value of the property which may be decreed, the name of the person in whose favour the decree may be given, the court in which it may have been passed, when it was made, what was decreed by it, and whether the decree has been executed, and is to assign some cause, special or general, for appealing from the decision.

What the petition of appeal is to contain.

Modified by Sec. viii., Reg. XV., 1816.

[Rule for determining the right to appeal.]—*Superseded by Section IX., Act VII.*, 1843.

Fourth. [Petition to be accompanied with copy of decree or declaration of its refusal.]—*Superseded by Section VIII., Regulation XV.*, 1816, *and Act. XXXV.*, 1837.

Superseded by Sec. viii., Reg. XV., 1816, and see Sec. viii., Act VII., 1843.

Fifth. [*The petition is to be presented to the court in which the decree appealed against may have been passed within three calendar months after the day on which the decree may be given.*] But it shall nevertheless be permitted to such person to prefer his petition of appeal after the expiration of the [*three months* *]; and the court is authorized to admit the appeal, provided the petitioner can shew just and reasonable cause to their satisfaction for not having preferred it within the limited period. But whenever the court shall admit an appeal which may be preferred to them after the limited time, they are to enter upon the record of the trial their reasons at large for admitting the appeal.

Period limited for preferring appeals.

Cases in which the Sudder Adawlut may admit appeals after the limited time.

* Substitute 30 days, under Sec. viii., Act VII., 1843.

Court to record their reasons for admitting an appeal after the limited time.

Sixth. In all authorized cases of appeal from the decrees of the *Provincial* Court to the Sudder Adawlut, the court in which the decree appealed from may have been passed shall suspend the execution of it during the appeal, provided the party against whom the decree may have been passed shall at the time of preferring his appeal, or within such reasonable period afterwards as may be fixed for the purpose, deliver the securities required by this and the next following clause; viz., if the decree be for a zemindarry, talook, or other lands, or for a house, or other real property, good and sufficient security in a sum equal to one year's produce thereof; and in all other cases, good and sufficient security in an amount equal to the sum of money or value of the thing decreed, for the performance of the decree which may be passed upon the appeal.

Execution of decrees appealed from to be suspended during the appeal under the prescribed security.

Modified by Secs. xi. and xii., Reg. XII., 1809, and Sec. xiv., Reg. XV., 1816.

Seventh. In all authorized cases of appeal, the party desirous of appealing is, with his petition of appeal, to deliver good and sufficient security for the payment of the costs that may be awarded on the appeal, [*including the fees of his pleader, in case he shall intend to employ any on his appeal.*] Without such security, or without proof of inability to find the same as required with respect to paupers by *Regulation XIV.*, 1802, no appeal shall be admitted. It is hereby declared, that the presenting a petition of appeal, without the security required by this clause, before the expiration of the time limited for appealing, shall not be considered as preserving to the appellant his right of appeal, as far as respects the limitation in question.

Parties desirous of appealing to deliver good security for the costs that may be awarded on the appeal, including fees of pleaders.

No appeal to be admitted without such security or proof of inability to find the same.

Presenting a petition of appeal, without the required securities, before the expiration of the time limited for appealing, declared not to preserve the right of appeal.

Superseded by Act I., 1846.

Substitute Reg. VII., 1818, and see Sec. x. of that Reg.

[Provision respecting security for pleaders' fees.]—*Superseded by Section II., Act. I.*, 1846.

Eighth. When the securities above required shall have been entered into, *the senior Judge of the Provincial Court* is immediately to indorse on

When the appellants have entered into the securities, the senior

judge is to make the indorsement herein required; to transmit to the Sudder Adawlut; to notify to the appellant that the proceedings will be certified to the Sudder Adawlut in fifteen days, and that if he shall not proceed in the appeal in six weeks from the date of the petition being filed in the above court it will be dismissed.

the petition, in his own handwriting, the day of the month and year in which it was presented, and sign it with his name, and cause to be written in the margin of the record, immediately opposite to the decree of the court, the word "Appealed," and transmit the petition to the Sudder Adawlut. The court is at the same time to direct notice in writing to be given to the appellant, that within fifteen days the proceedings held in the cause appealed will be certified to the Sudder Adawlut; and that if he shall not proceed in the appeal within six weeks after the petition of appeal shall have been filed in the Sudder Adawlut, his appeal will be dismissed, unless he shall shew reasonable cause to the satisfaction of that court for not having proceeded in it.

See Acts XXIX., 1841, and XVI., 1845.

Sudder Adawlut may in particular cases require further security during appeals, if on application of the parties the security taken appear insufficient.

Ninth. Notwithstanding the appellants in causes depending before the Sudder Adawlut may have entered into the securities required of them by the above clauses in this section, that court is further authorized, in cases wherein, from delay in the decision, the securities originally so given may afterwards appear insufficient, in respect to the period of time the cause has been pending, or is likely to remain still undecided, on the application of the respondent or respondents, in all such cases to require any additional security which it may deem necessary to secure the party who may have obtained a judgment in his favour from any loss by the non-execution of such judgment during the appeal; and in default of such further security being given within a reasonable period to be fixed for that purpose, the court is empowered to direct the judgment in question to be carried into execution, in like manner as if no securities had originally been given by the appellant; provided that, in such cases, good and sufficient security, as prescribed by the regulations, be given by the respondent previous to his being put in possession of the property in litigation. The supplemental security required in this clause, as necessary to maintain a depending appeal, is carefully to be distinguished from the securities originally necessary to warrant the cause being appealed; the supplemental security being only demandable by the Sudder Adawlut, after a lapse of time, the original securities being requirable by the *Provincial* Court previous to the petition of appeal being admitted.

In default of such further security being given by appellants, the judgment to be executed.

Provided the prescribed security be given by the respondent.

Modified by Secs. xi. and xii., Reg. XII., 1809, and Sec. xiv., Reg. XV., 1816.

See Sec. xiii., Reg. XV., 1816.

See Sec. viii., Reg. II., 1811.

Provision for cases wherein neither the appellant or respondent may be able to give the prescribed securities.

Tenth. As cases may occur wherein neither the appellant or respondent may be able to give the prescribed securities for staying the execution of the decree, or for the execution thereof in favour of the plaintiff, it is hereby enacted, that in all such cases the property adjudged shall be held in attachment during the appeal, or until such time as one of the parties may be able to give the required securities, by the collector of the district wherein the land may be situated, at the expense of the party who may be ultimately declared entitled thereto, under the provisions in that respect established. No attachment, however, is to be made by any collector in the cases herein supposed, until he shall receive a precept, requiring him to make the same, from the *Provincial* Court wherein the original judgment in the cause may have been passed, which precept shall state specially the property to be included in the attachment, and shall require the collector to continue the same till ordered to be withdrawn by a further precept from the court, to be issued either on the prescribed securities being given by one of the parties, or on the cause being finally determined.

See Sec. xi., Reg. XII., 1809, and Cl. 2, Sec. v., and Sec. vii., Reg. II., 1811.

The collectors to hold the adjudged property in attachment in such case.

Provincial Courts on

Eleventh. Where a petition for an appeal to the Sudder Adawlut shall

be rejected, on whatever ground, by a *Provincial* Court, such court shall, on the court day next ensuing, or as soon afterwards as may be practicable, cause the appellant to be furnished with a copy of their order for rejecting the appeal, and the appellant shall be still at liberty to present his petition of appeal to the Sudder Adawlut, *in the mode and under the restrictions prescribed by this section;* provided that such petition set forth the previous application made to the *Provincial* Court, and the rejection of the appeal by that court, and be accompanied by a copy of the order of rejection, or by a declaration that such copy was applied for *ten days after the same was passed*, and not obtained.

Rejecting a petition of appeal to the Sudder Adawlut, to furnish appellant with a copy of their order for such rejection.

And appellant at liberty to present his petition of appeal to the Sudder Adawlut under restrictions prescribed by this section.

See Sec. v., Reg.XV.,1816.

See Act XXXV., 1837.

Twelfth. [Where the appellant does not comply with the foregoing rules, the court to execute the decree.]—*Superseded by Section XIV., Regulation XV.*, 1816.

Thirteenth. [Admission of summary appeals.]—*Rescinded by Clause* 1, *Section V., Regulation XV.*, 1816.

XI. The court, within fifteen days after the receipt of the appeal, are to certify under their hands and the seal of the court, to the register of the Sudder Adawlut, the record duly made up and authenticated; including the original petition of appeal and answer of the parties, the original papers and documents received from the *Zillah* Court, the original depositions (where any may have been taken before the *Provincial* Court), exhibits, and every original paper read in the cause. Previous to transmitting the above-mentioned papers to the Sudder Adawlut, the *Provincial* Court are to cause true and faithful copies of all the originals, authenticated by the serishtadar, or head native officer of the court, to be made out and deposited in the court in lieu of the originals. The copies are to be deemed records of the court, and are to be received in evidence in any other court. In cases where any original depositions, or other original proceedings or matter whatsoever, shall have been previously entered in any *Provincial* Court in any book which may likewise contain proceedings in other distinct causes, or any other matter, so that such original papers cannot be transmitted to the Sudder Adawlut, without the other proceedings or matters, the court, within the time and in the manner before directed, is to certify a true and authentic copy of such original papers, and that the original of each copy transmitted is so entered in such book. But they are nevertheless to transmit the original petition of appeal, the original answer, or other separate pleadings of the parties, and the original exhibits which shall have been delivered in or produced by the parties, and read in the course of the cause before the court, if they be forthcoming, in the manner before required. In cases where any original paper shall have been mislaid or lost, and a copy of it shall have been entered in any book or proceedings, the copy is to be deemed the original, and the court is to transmit a copy of it to the Sudder Adawlut, and in like manner to certify it, and that after due search the original cannot be found.

Record, including original papers in the cause appealed, to be transmitted to the register to the Sudder Adawlut in fifteen days after the receipt of the appeal.

Copies of all the original papers transmitted, attested by the serishtadar, to be deposited amongst the records of the court.

Copies to be deemed records and to be received in evidence.

Copies of original papers to be sent to the Sudder Adawlut where the original cannot be sent for the reasons herein specified.

Recorded copies of original papers not forthcoming to be deemed the originals, and copies of them to be forwarded and certified as herein required.

XII. Where the Sudder Adawlut may confirm the decree of a *Provincial* Court, they are to adjudge interest at the rate of one per cent. per mensem on all sums receivable by the respondent under the decree passed in his favour, from the date of such decree, and are authorized to punish

Interest to be allowed on sums adjudged by the decree appealed from if confirmed, and litigious appeals to be punished by fine.

appeals which may appear to them litigious by a fine to Government, proportionate to the condition of the party and the circumstances of the case.

All process of Sudder Adawlut (with the exceptions herein specified) to be issued through the *Provincial Courts of Appeal.*

See Sec. xv., Reg. XV., 1816.

XIII. All process, both to parties and witnesses, and every rule or order for the execution of a decree or final order, and every other order whatever which may issue from the Sudder Adawlut, is to be written or printed in such of the languages of the country as the court may direct, and sealed with the seal of the court, and signed by the register. All such process, rules, and orders which are to be served or executed on any parties, witnesses or persons (exclusive of the parties, vakeels, or persons in actual attendance on the court), are to be directed to the *Provincial Court of the division* in which the cause of action shall originally have arisen, or in which the lands may be situated, or the parties may be or reside. Every such process, rule, and order is to limit a certain time in which it is to be served, executed, and returned to the Sudder Adawlut.

Modified by Secs. xiii., xiv., and xv., Act VII., 1843.

[Sudder Adawlut may suspend Judges of Provincial Courts making false returns.]—*Rescinded by Section II., Regulation V.*, 1828.

[Sudder Adawlut may send process directly to be executed by Zillah Courts instead of through the Provincial Courts.]—*Superseded by Section XIII., Act VII.*, 1843.

Process of the Sudder Adawlut, how to be served by the *Provincial* Courts.

To return the process executed, or reasons why it has not been executed.

Form and manner in which the return is to be made.

Court to cause a copy of the process and return to be deposited amongst the records of the court.

Court how to proceed in case any such process cannot be served upon the party in consequence of his absconding or otherwise avoiding it.

Court to fix up a writing in the court-room and at the place of residence of the party.

What the writing is to contain.

XIV. In all cases in which process, either to a party or witness, and all process whatever, and every rule or order for the execution of any decree or final order, or any order relating to a cause depending in the Sudder Adawlut, which may be directed by such court to any *Provincial Court of Appeal*, the court to whom the process may be directed is to execute the order contained in the process, rule, or order, and return it so executed within the time limited, or return to the Sudder Adawlut good and sufficient reason why it has not been served or executed. When any process, rule, decree, or order for the execution of any decree, or final order, or any order whatever, shall be transmitted by the Sudder Adawlut to a *Provincial Court of Appeal* to be served or executed, the return to such process, rule, order, or decree is to be made by the court, either by indorsement on the process, rule, order, or decree, or to be written on a paper firmly annexed to it; and if the return be made in the last-mentioned manner, there is to be an indorsement on the process, rule, order, or decree, referring the Sudder Adawlut to the return contained in such annexed paper; and the court is to cause a copy of the process, rule, order, or decree, together with the return to it, to be deposited amongst the records of the court. And in all cases in which the Sudder Adawlut may transmit any order or process to be served or executed by a *Provincial* Court against a party in a cause, and the party on whom it is to be served or executed is not, after diligent search, to be found, or shall have absconded, or shut himself up in his own or any house or building, or retired to any place so that the process cannot be served upon him, the court to which the process may be directed is to cause to be fixed up in some conspicuous part of the room in which the court may be held, a writing [*in the Persian and*] in the language of the district in which the court may be situated, containing a copy of the order or process, and a notice, that if the party shall not obey the exigence of it within the time

Modified by Secs. xiii., xiv., and xv., Act VII., 1843.

limited, the Sudder Adawlut will, without further notice, process, or order, proceed ex parte to hear, try, and determine the cause to which such process or order may relate; and the court is likewise to cause a copy of such writing to be fixed up, with all practicable dispatch, on the outer door of the house in which the party may have commonly dwelt, or in some conspicuous place in the village in which he may have usually resided, and to return to the Sudder Adawlut, in the manner before directed, how he has executed the process.

Sudder Adawlut to proceed ex parte when the *Provincial* Courts shall report that a party has absconded or was not to be found after the observance of the forms herein directed.

XV. If a *Provincial Court of Appeal* to which any process, rule, or order of the Sudder Adawlut may be transmitted for the purpose of being served or executed on any party, shall return that the party has absconded or shut himself up in his own or any house or building, or retired to any place so that the process could not be served upon him, or that he was not after diligent search to be found, and that they had caused the writing to be fixed up in the places and manner directed, and the party shall not appear and obey the exigence of the process, rule, or order, the Sudder Adawlut is to proceed ex parte to try and determine the cause in which the process, rule, or order shall have issued, in the same manner as if the party had appeared and obeyed the exigence of the process.

Cases in which the Sudder Adawlut is empowered to take new evidence in appeals, or to refer them back for further evidence to the *Provincial* Courts.

XVI. The Sudder Adawlut is empowered, in cases of appeal in which it shall appear to them that the original suit has not been sufficiently investigated in the *Provincial Court of Appeal*, or for any other cause that may be deemed reasonable by the court, either to receive such further evidence as they may think necessary for the just determination of the suit, and give judgment upon it, or to refer the suit back to the *Provincial Court* in which it originated, accompanied by such special directions to the *Provincial* Court, with regard to the new evidence they are to receive respecting it, as may be deemed by the court most conducive to justice and the convenience of the parties and witnesses. But in every case in which the Sudder Adawlut may exercise the power above vested in them, they are to enter upon the record of the trial their reasons for having exercised it. In cases in which the court may judge it proper to receive such further evidence themselves, they are empowered, according as they may deem most conducive to justice (respect being had to the nature of the cause and the evidence), either to examine the witnesses to be produced vivâ voce in open court, first causing the witnesses to be *sworn*, and their depositions to be reduced into writing, and signed by the deponents respectively, or to authorize their register to *swear* the witnesses and take their depositions, and to cause the deponents to sign them, and to authenticate them with their signatures. The register in such case is to examine the witnesses in the presence of both parties or their vakeels, who are to be at liberty to put any questions to the witnesses that they may think proper, and the questions, with the answers to them, are in the same manner to be reduced into writing, signed and authenticated. But if due notice be given to the parties or their vakeels of the examination of any witness or witnesses before the register, and he or they shall not attend at the time of the examination, the register is to proceed in the examination as before directed, and the depositions are to be received as good and authentic evidence.

Sudder Adawlut to state their reasons on the record of the trial whenever they may exercise the powers above vested in them.

Courts empowered to hear the evidence in the cases above specified vivâ voce, or to order their register to take it.

Cases in which the Sudder Adawlut may dispense with the *oaths* of witnesses, or direct their evidence to be taken by commission.

XVII. The Sudder Adawlut may dispense with the *oaths* of the descriptions of witnesses which the *Zillah* Courts are authorized to exempt from taking *oaths* on their signing in open court the declarations that are required to be subscribed by such witnesses in the *Zillah* Courts. Where witnesses may be women of the description specified in Section VII., Regulation III., 1802, or shall reside out of the jurisdiction of the court, and at a distance from it exceeding fifty coss, the court may grant such commissions as the *Zillah* Courts are authorized to grant for the examination of such witnesses upon similar occasions. And the Sudder Adawlut may issue such commissions to creditable women, and send such letters to the *Provincial* Courts for the examination of witnesses in the cases in which the judges of the *Zillah* Courts are authorized to send such commissions and letters.

Modified by Act. V., 1840.

Modified by Act VII., 1841.

XVIII. [Proceeding to be taken by Sudder Adawlut against recusant witnesses and persons in contempt.]—*Rescinded by Act. XV.*, 1835.

Court to dismiss appeals if the appellants omit to proceed in them within six weeks without shewing sufficient cause for the omission.

Reasons for the dismission of the appeal to be recorded.

XIX. If the appellant in an appeal filed in the Sudder Adawlut shall not proceed in the appeal for six weeks, the appeal is to be dismissed, unless the appellant shall shew reasonable cause to the satisfaction of the court for not proceeding in it; and the court may, if they shall deem it equitable so to do, award to the respondent costs of suit. But in all such cases, the court are to enter at large upon their proceedings the grounds upon which they may permit or refuse to allow the appellant to proceed.

See Acts XXIX., 1841, and XVI., 1845

No persons to be heard vivâ voce in any stage of a cause excepting principals, their witnesses, or vakeels duly empowered.

XX. In such suits as by any regulation may be authorized to be tried in the first instance before the Sudder Adawlut, and in appeals that may be heard by that court, no proceedings are to be held, nor any acts whatever done, either on behalf of the plaintiff or defendant, or the appellant or respondent, excepting by the plaintiff or defendant, the appellant or respondent, respectively; or by a vakeel admitted to plead in the court under the established regulations, nor by any vakeel before his vakalutnamah shall have been filed in court; and no persons excepting such parties or their witnesses, or such vakeels, shall be heard vivâ voce in any stage in the cause.

For exceptions in respect of soldiers' suits, see Sec. ii., Reg VIII., 1817.

Sudder Adawlut empowered to order the *Provincial* Courts to enforce decrees for sums of money against proprietors of land by the same process as those courts may enforce such decrees passed by themselves.

XXI. The Sudder Adawlut is empowered in every case in which a sum of money is decreed to be paid by a zemindar, independent talookdar, or other actual proprietor of land, to issue an order to the proper *Provincial* Court to execute the decree, in the same manner as the *Provincial* Courts are authorized to execute decrees by which a sum of money may be decreed to be paid by any of the descriptions of persons above mentioned.

See 4th and following clauses of Sec. xiv., Reg. XV., 1816, and Sec. xiv., Act VII., 1843

See Sec. xxvii., Reg. IV., and Sec. ix., Reg. III., 1802.

Petitions of appeal from decisions founded on awards of arbitration to be dismissed with costs.

Exception to the rule.

XXII. If a petition of appeal shall be preferred against the decision of any *Provincial Court of Appeal* founded on an award of arbitration, it is to be dismissed with costs, unless it be fully proved to the satisfaction of the court by the *oaths* of two credible witnesses, that the arbitrators have been guilty of gross corruption or partiality in the cause in which they have made the award.

XXIII. [Sudder Court may authorize adjournments of Provincial and Zillah Courts.]—*Rescinded by Section II., Regulation III.*, 1816.

XXIV. If a zemindar, independent talookdar, or other actual proprietor of land, or a dependent talookdar, shall resist, or cause to be resisted, any process, rule, order, or decree, which may at any time issue from the Sudder Adawlut, the court, on proof of the resistance being made by *oath* to their satisfaction, are to cause the offender to be summoned to answer to the charge. If the offender shall abscond, or shut himself up in his own or any house, or in any building, or retire to any place, so that he cannot be served with the summons, the court is to proceed against him in the manner directed with regard to other persons absconding, or otherwise acting as above specified, so that they cannot be served with the process of the court. If the offender shall not appear within the prescribed time, or if he shall appear, and after receiving his answer to the charge, and hearing the evidence which he may produce in his defence, it shall be proved to the satisfaction of the court that he is guilty of the charge, the court are to decree that the offender shall, from the date of their decree, forfeit his zemindarry, talook, or other estate in which such resistance shall have been made; or if the resistance shall have been made out of the limits of the estate of the offender, the zemindarry, talook, or other landed property which he may possess within the jurisdiction of the *Zillah* Court to which the execution of the process resisted may have been committed. The court is immediately to forward a copy of their decree and proceedings to the Governor in Council. It shall be at the option of the Governor in Council, on the receipt of a decree adjudging the lands of any person forfeited under this section, either to order it to be executed, or to commute the forfeiture for such fine as, upon a consideration of the situation and circumstances in life of the offender, he may think adequate to the offence for which the decree may be passed. In the event of the Governor in Council commuting the forfeiture for a fine, the court, upon receiving notice of the fine that he may impose, are to levy the amount of it by the same process by which they are directed to enforce their decrees. In the event of the Governor in Council ordering the decree to be executed, the court is to issue a precept, under the seal of the court and the signature of the register, requiring the collector of the revenue of the zillah to depute an ameen with a proper establishment of officers (whose allowances are to be specified in the precept), to sequester the lands, and collect the rents and revenues. If the lands of the defaulter shall be deemed by the court too inconsiderable to admit of their being charged with the expense of an ameen, they are to direct a precept to be issued to the collector of the zillah, to order the nearest tehseeldar, or other officer employed under him in the business of the collections, to take charge of the lands. The officer is to perform the duties prescribed to ameens in such cases, and under the same restrictions and penalties.

Sudder Adawlut how to proceed against zemindars, independent talookdars, or other actual proprietors of land, or dependent talookdars who may resist their process.

Offender to be summoned to answer for his conduct

Court how to proceed if the offender shall not obey the summons

Decree to be passed if the offender shall not appear, or shall appear and be proved guilty of the charge.

A copy of the decree to be sent to the Governor in Council.

If the lands are decreed forfeited, the Governor in Council may confirm the decree or commute the forfeiture for a fine.

If the forfeiture is commuted for a fine, how the amount is to be levied

If the decree is declared final, the court is to issue a process to the collector to sequester the lands.

XXV. If the decree adjudging the lands of the offender forfeited shall be confirmed or stand good under Section XXIV., it shall be at the option of the Governor in Council, either to confer the rights which the offender possessed in the lands on his heirs, upon their agreeing to make

How lands forfeited under Sec. xxiv are to be disposed of.

good all sums whatever may be due to Government from the offender, on account of the lands forfeited, and to pay the fixed public revenue assessed upon them; or if it be a dependent talookdar, the revenue payable from it to the proprietor within whose estate it may be situated, or to order the lands to be disposed of at public sale.

Sudder Adawlut how to proceed against persons holding farms of Government who may resist their process

Offender to be summoned to answer for his conduct

Court how to proceed if the offender shall not obey the summons

Decree to be passed by the court if the offender shall not appear, or shall appear and be proved guilty of the charge

A copy of the decree to be sent to the Governor in Council

Option reserved to the Governor in Council to confirm the decree or commute it for a fine and to compel the farmer to perform the conditions of his lease

How such fines are to be levied

If the lease of the offender should be annulled, how balances due from him are to be recovered

Farmers whose leases may be cancelled how to recover balances

XXVI. If a farmer of land, holding a farm immediately of Government, shall resist, or cause to be resisted, any process, rule, order, or decree, which may at any time issue from the Sudder Adawlut, the court, on proof of the resistance being made by *oath* to their satisfaction, are to cause the offender to be summoned to answer to the charge. If the offender shall abscond, or shut himself up in his own or any house or building, or retire to any place so that he cannot be served with the summons, the court is to proceed against him in the manner directed with regard to other persons absconding, or otherwise acting as above specified, so that they cannot be served with the process of the court. If the offender shall not appear within the prescribed period, or if he shall appear within the limited time, and after receiving his answer to the charge, and hearing the evidence which he may have to produce in his defence, it shall be proved to the satisfaction of the court that he is guilty of the charge, the court is to decree the lease cancelled from the expiration of the revenue year in which the decree may be passed. The Sudder Adawlut is immediately to forward a copy of the decree and proceedings to the Governor in Council. It shall be at the option of the Governor in Council, on the receipt of a decree adjudging the lease of a farmer annulled under this section, either to order the decree to be executed, or to commute the forfeiture of the lease for such fine as, upon a consideration of the situation and circumstances in life of the defaulter, he may think adequate to the offence for which the decree may be passed; or if the offender shall not be desirous of being continued in his farm, to fine him as above prescribed, and compel him to retain the farm during the remainder of the lease, and to hold him and his surety responsible for the discharge of their engagements until the term of them shall expire. If a fine shall be imposed upon the offender, the court, upon receiving notice of the fine, is to levy the amount of it by the same process as is prescribed for enforcing decrees of the court. If the lease of the offender shall be annulled, and a balance shall be due from him to Government at the close of the year in which the lease may be cancelled, both he and his surety are to be held responsible for the payment of it; and the collector of the revenue of the zillah is empowered to proceed against them for the recovery of it, agreeably to the rules in that respect established. The offender is permitted to prosecute in the *Dewanny Adawlut of the zillah* in which the farm may be situated, the dependent talookdars, under-farmers, and ryots in the lands included in the farm, for any arrears of rent or revenue that may be due from them to him, on account of the period during which his lease remained in force.

Court how to proceed against persons resisting process who are not proprietors of land, talookdars, or farmers

XXVII. If any person not being a zemindar, independent talookdar, or other actual proprietor of land, or a dependent talookdar, or a farmer of land, holding a farm immediately of Government, shall resist, or cause to be resisted, any process, rule, order, or decree, which may at any time

issue from the Sudder Adawlut, the court, on proof of the resistance being made by *oath* to its satisfaction, is to cause the offender to be summoned to answer to the charge. If the person for whom the summons may be issued shall abscond, or shut himself up in his own, or any house or building, or retire to any place so that he cannot be served with the summons, the court is to proceed against him in the manner directed with regard to other persons absconding, or otherwise acting as above specified so that they cannot be served with the process of the court. If the offender shall not appear within the prescribed period, or if he shall appear within the limited time, and after receiving his answer, and hearing the evidence which he may have to produce in his defence, it shall be proved to the satisfaction of the court that he is guilty of the charge, the court is to adjudge the offender to pay such fine to Government as may appear to it proper, upon a consideration of his situation and circumstances in life, and the offence for which the decree may be passed. The court is to proceed to levy the amount by the same process by which it is empowered to carry its decrees for sums of money into execution.

Offender to be summoned to answer for his conduct.

Court how to proceed if the offender shall not obey the summons.

How the court is to enforce payment of the fine.

See Secs. III., VII., and XXVII., Reg III ,1802.

XXVIII. The petition of appeal, pleadings, depositions, and exhibits in the Sudder Adawlut, are to be numbered, marked, dated, and signed by the register, in the same manner as the complaint, pleadings, depositions, and exhibits are ordered to be numbered, marked, dated, and signed by the *register in the Zillah Courts*. The decrees are to be signed by the judges present in the court when the decrees may be passed, and attested by the register, and copies, so signed and attested, are to be delivered to the parties.

See Sec III., Reg VI ,1828

Proceedings of the Sudder Adawlut how to be numbered, marked, dated, and signed.

Decrees to be signed by the judges and attested by the register, and copies to be delivered to the parties.

XXIX. [The Sudder Adawlut to be furnished with translations of papers in native languages.]—*Rescinded by Section XII., Act VII.*, 1843.

XXX. In cases for which no specific rules may exist, the Sudder Adawlut is to act according to justice, equity, and good conscience.

Court how to act in cases for which no rule may exist

XXXI. to XXXVI. [Provisions for appeal from the decrees of the Sudder Adawlut to the Governor-General in Council.]—*Rescinded by Section II., Regulation VIII.*, 1818.

XXXVII. [Provision for review of judgment.]—*Rescinded by Clause* 1, *Section VI., Regulation XV.*, 1816.

XXXVIII. [Depositions need not be written in unappealable cases.]—*Superseded by Section IX., Act VII.*, 1843.

Superseded by Act XIII., 1843

XXXIX. [*Whenever a report of negligence, or misconduct in the discharge of official duty, may be made to the Court of the Sudder Adawlut, either in pursuance of the latter part of Section X., Regulation IV.*, 1802; *or of Section XIII., Regulation XII.*, 1802; *or in any case not expressly provided for by the regulations; the Court of Sudder Adawlut, after such inquiry as may be judged necessary, in proof or explanation of the circumstances stated, shall, if the case appear to require the notice of the Governor in Council, report the same to him, with a copy of all proceedings and*

Rules for the guidance of the Sudder Adawlut on a report of negligence or misconduct in any of the judges or officers of the courts.

papers received on the subject of it, for such orders as may be judged proper.] The Court of Sudder Adawlut is directed to report to the Governor in Council all instances of wilful neglect of duty, or aggravated misconduct by a covenanted servant of the Company, employed in any of the civil courts, whether in a judicial or ministerial capacity; and whether such neglect or misconduct may have been reported to the Court of Sudder Adawlut by a *Provincial or Zillah Court*, or may otherwise appear from the proceedings and papers before the court. But if the case should appear to the court to involve an error of judgment only, or a slight default, for which an admonition from the court may be deemed a sufficient correction, the Court of Sudder Adawlut, in the former case, is authorized to notice the error for the information and guidance of the party who may have committed it; or in the latter case, to advise him of his default, and to admonish him accordingly.

In what cases court to report to the Governor in Council.

Errors of judgment or slight defaults how to be corrected.

A.D. 1802. REGULATION VI.

A REGULATION *for the Guidance of the Magistrates in apprehending Persons charged with Crimes or Offences, and bringing them to trial:* PASSED *by the Governor in Council of Fort St. George, on the* 1*st of January,* 1802.

[Rescinded by Section II., Regulation IX., 1816.]

A.D. 1802. REGULATION VII.

[FRAMED UPON THE LATTER PORTION OF REGULATION IX., 1793, OF THE BENGAL CODE.]

A REGULATION *for the Establishment of the Courts of Circuit for the Trial of Persons charged with Crimes:* PASSED *by the Governor in Council of Fort St. George, on the* 1*st of January,* 1802.

To the end that persons charged with crimes may be speedily brought to trial, and that witnesses may not be put to the inconvenience and expense arising from a long absence from their homes, it has been resolved, that Courts of Circuit shall be established in the several provinces, to proceed twice every year to the different stations for the purpose of trying and determining criminal cases, agreeably to the following rules.

II. [Establishment of four Courts of Circuit.]

III. [Extent of their jurisdiction.]

IV. [Who are to be the judges.]

Superseded by Sections I., II., and XXVI., Act VII., 1843.

SeeActXXI., 1837

V. The judges of the *Courts of Circuit*, previous to the entering upon the execution of the duties of their office, are to take and subscribe the following oath before the Governor in Council, or such person as he may commission to administer it:

Oath to be taken and subscribed by the judges of *circuit*

This oath is directed to be taken by the judges of the Foujdarry Adawlut. See Sec. v., Reg. IV., 1806.

"I, A. B., solemnly swear, that I will truly and faithfully execute the duties of judge of the *Court of Circuit for the division of* ; that I will administer justice according to the regulations that have been, or may be, enacted by the Governor in Council, to the best of my ability, knowledge, and judgment, without fear, favour, promise, or hope of reward; and that I will not receive, directly or indirectly, any present or nuzzer, either in money or in effects of any kind, from any party in any suit or prosecution, or from any person whomsoever, on account of any suit or prosecution, to be instituted, or which may be depending, or has been decided in the *Court of Circuit* of which I am judge; nor will I knowingly permit any person or persons under my authority, or in my immediate service, to receive, directly or indirectly, any present or nuzzer, either in money or in effects of any kind, from any party in any suit or prosecution, or from any person whomsoever on account of any suit or prosecution, to be instituted, or which may be depending, or has been decided in the said court; nor will I, directly or indirectly, derive any advantage or emolument from my station, excepting such as the orders of Government do or may authorize.

"So help me God."

VI. [Registers and assistants to be appointed.]*

SeeActXXI., 1837.

"I,* A. B., register (or assistant to the register) to the *Court of Circuit for the division of* , solemnly swear, that I will truly and faithfully perform the duties of register (or assistant to the register) to this court, according to the best of my knowledge and ability; and that I will not receive, directly or indirectly, any present or nuzzer, either in money or in effects of any kind, from any party in any suit or prosecution to be instituted, or which may be depending, or has been decided in the *Courts of Circuit* of which I am register (or to the register of which I am assistant), nor will I, directly or indirectly, derive any advantage or emolument whatever from my office, excepting such as the orders of the Governor in Council do or may authorize.

Oath to be taken and subscribed by registers and assistants.

"So help me God."

VII. [Who to be the law officers of the Court of Circuit.]—*Superseded. See Sections XXXI. and LI., Act VII.*, 1843.

* The office of register ceased on the abolition of the Courts of Circuit, but this oath is directed to be taken by the register of the Foujdarry Adawlut.—See Sec. vi., Reg. VIII., 1802.

Cauzies and mufties of the *Courts of Appeal* to be cauzies and mufties of the *Courts of Circuit*.

VIII.* The cauzies and mufties of the *Courts of Circuit*, previous to entering upon the execution of the duties of their offices, are to take and subscribe the following oath before the *Court of Circuit* to which they may be respectively attached.

See Act XXI., 1837.

Oath to be taken and subscribed by the cauzies and mufties upon their first appointment.

"I, A. B., cauzy or (mufty) of the *Court of Circuit for the division of* , solemnly swear, that I will truly and faithfully perform the duties of cauzy (or mufty) of the court, according to the best of my knowledge and ability; and that I will not receive, directly or indirectly, any present or nuzzer, either in money or in effects of any kind, from any party in any suit or prosecution to be instituted, or which may be depending, or has been decided in the *Court of Circuit* of which I am cauzy (or mufty); nor will I, directly or indirectly, derive any advantage or emolument from my office, excepting such as the orders of Government do or may authorize."

Half-yearly oath to be taken and subscribed by the cauzies and mufties.

IX.* At the expiration of every six months, that is, on the 1st of January and the 1st of July in each year, the cauzies and mufties of the *Courts of Circuit* shall take and subscribe the following oath:

See Act XXI., 1837.

"I., A. B., cauzy (or mufty) of the *Court of Circuit for the division of* , solemnly swear, that from the 1st of January to the 30th June last (or, from the 1st July to the 31st December last), I have truly and faithfully executed the duties of cauzy (or mufty) of this court, according to the best of my knowledge and ability; and that I have not received, directly or indirectly, any present or nuzzer, either in money or in effects of any kind, from any party in any suit or prosecution which has been or is to be instituted, or is depending, or has been decided in the *Court of Circuit* of which I am cauzy (or mufty); nor have I, directly or indirectly, derived any advantage or emolument from my office, excepting such as the orders of Government have authorized me to receive."

Serishtadars and other native officers of the *Provincial Courts of Appeal* to be serishtadars and officers of the *Courts of Circuit*.

X. The serishtadars, and other native officers of the *Provincial Courts of Appeal*, shall be serishtadars and officers of the *Courts of Circuit of the division* to which they are respectively attached.

XI., XII., XIII., XIV. [The judges to make circuits, to deliver the zillah jails, and to hold sessions at the sudder station.]—*Superseded. See Sections XXVI. to XXX., Act VII.*, 1843.

Manner in which the trial of the prisoners is to be conducted

XV. *First.* The proceedings on the trial of prisoners are to be conducted in the following manner. The charge against the prisoner, his confession (which is always to be received with circumspection and tenderness) if he plead guilty, or, if he plead not guilty, the evidence on the part of the prosecutor, the prisoner's defence, and any evidence which he may have to adduce, being all heard before him, the cauzy or mufty (who is to be present during the whole of the trial) is to write at the end of the record of the proceedings, the futwah, or law, as applicable to the circumstances of the case, and to attest it with his seal and signature.

The provisions of this section are subject to the exceptions in Secs. xxxi. and xxxii., Act VII., 1843.

* The oaths in Secs. viii. and ix. are directed to be taken by the cauzy and mufties of the Foujdarry Adawlut.—See Sec. vii., Reg. VIII., 1802.

The court shall attentively consider such futwah, and if it shall appear to them consonant to natural justice, and also conformable to the Mahomedan law, they are to pass sentence in the terms of the futwah (except in cases in which they are expressly directed not to pass sentence), and to issue their warrant to the magistrate for the execution of it, without further reference or delay. Provided, however, that in all cases where a prisoner may be condemned by such sentence to suffer death or *imprisonment for life*,* the court shall transmit a copy of the sentence, and of all the papers and proceedings read or recorded during the trial, with translates in English, to the Foujdarry Adawlut, and shall not execute such sentence, but shall wait the final sentence of that court.

In trials for murder the law officer to be required to declare whether the prisoner is convicted of the charge

Second. In trials for murder before the *Courts of Circuit*, after the proceedings shall have been concluded in the manner above prescribed, the law officer of the court who may be present during the trial, shall be required by the judge to declare whether the prisoner is convicted of the charges against him, and shall subscribe his answer on the record of the court's proceedings. If the law officer shall declare the prisoner to be not guilty, the judge shall pass an immediate sentence of acquittal, and order him to be discharged, unless he shall see cause to disapprove such opinion, in which case he is to refer the proceedings on the trial for the sentence of the Foujdarry Adawlut. If the answer of the law officer shall declare the prisoner to be convicted of express murder (Kutl-amd), the judge, without making any reference to the heir or heirs of the slain, shall require the law officer to declare the punishment to which the prisoner convicted would be liable according to the Mahomedan law, supposing all the heirs of the slain, entitled to prosecute the prisoner for kissaas, to have attended and prosecuted him at an age competent to demand kissaas, and to have demanded kissaas. The futwah of the law officer, upon this reference, shall be also subscribed on the record of the court's proceedings, and whether the futwah declare the prisoner liable to suffer death (as must be the case in most instances of conviction of express murder under the supposed demand of kissaas by the heirs of the slain), or whether it declare the prisoner not liable to capital punishment (from the heirs of the slain not being legally entitled to demand kissaas, or the failure of retaliation, from the parties standing in the relation of parent and child, or master and slave, or otherwise), the judge is, in either case, to refer the proceedings for the sentence of the Foujdarry Adawlut. Should the answer of the law officer to the first reference acquit the prisoner of express murder, but convict him of homicide (of any one of the four denominations distinguished in the Mahomedan law, viz. shibeh-amd, kutl-khota, kutl-kayeem-mokam-ba-khota, and kutl-ba-subbub), the law officer is to declare the prescribed penalty for the same according to the Mahomedan law; and if his futwah should declare the deyut, or price of blood, to be the whole or part of the legal punishment, the *Court of Circuit* is to commute the fine to imprisonment for such period as it may consider adequate to the offence; and its sentences in such instances are to be carried into execution without reference to the Foujdarry Adawlut, if for temporary imprisonment, or referred to that court, if for *imprisonment for life*,* subject to the general provision contained in Section XXII.

The prisoner to be acquitted and discharged if declared by the law officer to be not guilty and the judge approve

In what manner the judge is to proceed if the prisoner shall be declared convicted of express murder.

Futwah to be subscribed on the proceedings.

Proceedings to be referred for the sentence of the Foujdarry Adawlut, whether the futwah declare the prisoner liable to suffer death or not subject to capital punishment.

Should the futwah declare the prisoner convicted of homicide, law officer to delare the prescribed penalty

If deyut be declared the legal punishment, the fine to be commuted to imprisonment

Sentence to be carried into execution if for temporary imprisonment

To be referred to the Foujdarry Adawlut if for *imprisonment for life*.

See Cl. 4, Sec iv., Reg I, 1818

* It being enacted by Act XIV., 1844, that whenever sentence of imprisonment for life

General provisions in Sec. xxii.

for referring to the Foujdarry Adawlut all trials whereon the *Courts of Circuit* may disapprove of the futwahs of their law officers.

Persons allowed to prosecute by vakeel in cases authorized by the Mahomedan law.

This rule not to prevent the court requiring, if necessary, the personal attendance of prosecutors, not being women of such a rank and situation in life as would render it improper to compel them to appear in a court of justice.

How the evidence of prosecutors or witnesses of the above description is to be taken.

XVI. The prosecutor is to be allowed the option of carrying on the prosecution in person, or by a vakeel duly appointed, except in cases in which the Mahomedan law requires the prosecutor to appear in person at the trial of the prisoners. This rule, however, is not meant to prohibit the judges causing prosecutors to attend in person, in every case in which their vivâ voce evidence shall be deemed necessary, provided they be not Mahomedan or Hindoo women of a rank and situation in life, which, according to the customs and prejudices of the country, would render it improper to compel them to appear in a court of justice. If the prosecutors or witnesses on a trial shall be women of this description, and their evidence shall be deemed necessary, and the case shall be of such a nature as to admit of its being taken by commission, the judges shall not require the attendance of such women, but shall depute persons to take their evidence in the manner prescribed by the Mahomedan law. See Act VII., 1841.

How the courts are to proceed in case the depositions of any witnesses cannot be obtained.

XVII. If the attendance of any witness on the part of the prosecutor, or the prisoner, whose evidence the law may not allow to be taken by commission, cannot be procured; or if any witness cannot be found, the judges may postpone the trial until *the next circuit*, provided there shall appear to *them* sufficient cause for so doing. If the attendance of such witness cannot then be procured, or if he shall not have been found, the judges may in like manner postpone the trial a second time. But if the judges and *their* law officers shall be of opinion that the evidence of any witness, or witnesses, who may be absent, is not necessary, *they* shall complete the trial without the evidence of such witness or witnesses.

Examinations to be taken down in the language preferred by the party.

Party to read it or have it read, and if approved to attest it.

Judge to certify it and to annex a translation in Persian.

XVIII. *First.* All examinations of parties and witnesses are to be taken down in the language and character in which the person examined may desire to have the same recorded, and such person, whether party or witness, is to be allowed to read the same when finished; or if unable to read, it is to be read to him; after which, if he admit the record to be correct, he is to affix his name or mark to it; and the judge, magistrate, or other officer before whom such examination may have been taken, is to certify the same under his official signature on the original record, as well as on a Persian translation thereof, to be annexed to the original examination (in case the same may have been taken down in any other language than the Persian), that the proceedings may be complete for the perusal of the law officers of the *Court of Circuit*, as well as those of the Foujdarry Adawlut, in the event of the trials being referred to that court.

Leading questions to be avoided.

Second. In the examination of witnesses, leading questions, suggesting a particular answer, or having a direct tendency to such suggestion, are to be carefully avoided, and the interrogatories to them are to be proposed in such general terms as may bring forth all the information they possess, and lead to a discovery of the truth. With this view the parties are

shall be passed the offender shall be transported, that addition must be understood in the several places in this regulation in which such imprisonment is mentioned.

to be allowed to cross-examine the witnesses, and the judge or magistrate shall also cross-examine them when necessary, for the same purpose.

Party and judge to cross-examine.

Third. Examinations of the parties and witnesses, besides the name of the person examined, are to specify the name of his or her father; and if a married woman, the name of her husband; also the religion, caste, profession, and age of the party or witness; and the village and purgunnah in which they reside.

What the examinations are to specify.

Fourth. When any stolen property, or instruments of violence, stated to have been found upon the prisoners or in their houses, are produced before the magistrate or *Court of Circuit*, the prosecutor, and any witness brought to give evidence thereupon, are to be carefully examined, relative to the identity of such property or instruments recognized by them, and the circumstances of the same having been found upon the prisoners, or in their houses. The principle of this rule is to be further kept in view in instances of circumstantial evidence.

In what manner examinations are to be made respecting stolen goods.

Rule to be applied to circumstantial evidence.

Fifth. With a view to impress upon the witnesses the necessity of caution and accuracy in delivering their evidence, it shall be the duty of the mullah-koranee, or of the Brahmin, to repeat aloud to them, in the language which they best understand, the following admonition immediately after they shall have been sworn respectively, viz.,—"In delivering your evidence under the *oath* now administered, you are required to declare the truth, the whole truth, and nothing but the truth. You are carefully to distinguish what you personally know as an eyewitness or otherwise, from what you may have heard from others, and are solemnly bound to answer all questions put to you on the trial before the court, without any regard to the prosecutor or prisoner, to the best of your information and belief."

Admonition to be read to witnesses.

*Sixth.** The *Courts of Circuit* are to be careful to notice on their proceedings any material difference between the depositions of the same witnesses as given before them and the *magistrates*, and are to question the witnesses thereupon, and record their answers; but the depositions taken before the *magistrates* are not to be read before the *Court of Circuit* in the presence of the persons who gave the same, until they shall have been re-examined before the *Court of Circuit.*

Courts of Circuit to notice any variations in the depositions of the same witnesses.

Depositions taken before the *magistrates* not to be read until the witnesses shall have been re-examined.

XIX. On trials for murder, the law officers shall deliver their futwah, or law opinions upon the case, according to the doctrines of Yusuf and Mahomed.

In cases of murder, the law officers to deliver their futwahs according to Yusuf and Mahomed.

XX. No criminal shall suffer the punishment of mutilation.

No criminal to suffer mutilation.

See Sec. iv., Reg. I., 1825.

XXI. Where a prisoner shall be adjudged, in conformity to the futwah of the law officers, to lose two limbs, instead of being made to undergo such punishment, he shall be imprisoned and kept to hard labour for fourteen years: and where a prisoner shall be adjudged to lose one limb, he shall, in lieu of such punishment, be imprisoned and kept to hard labour for seven years. The judges *are* accordingly directed, whenever

Punishment to be inflicted in lieu of mutilation.

* By Sec. xxxix., Reg. X., 1816, such parts of this clause and Secs. xxx. and xxxii. as relate to the Magistrate were specially declared applicable to the Criminal Judge only, whose duties are now discharged by the Subordinate Judge and Principal Sudder Ameen.

any criminal shall be sentenced to suffer mutilation, to commute such punishment for imprisonment and hard labour for the term above prescribed, *and to issue their warrant to the magistrate for that purpose.*

See Secs. xlviii. and xlix., Act VII., 1843.

How the courts are to proceed if they disapprove of any part of the proceedings, or the futwah of the law officers.

XXII. Where the judges shall disapprove of any part of the proceedings held on a trial, or of the futwah delivered by the law officers, *they* are not to pass sentence in such cases, but shall complete the trial, and transmit to the Foujdarry Adawlut a copy of all the proceedings and the futwah of the law officers, with a separate letter, stating the grounds of *their* disapproval, and wait the sentence of that court.

Judges to refer all questions of law to the law officers, except on points specifically provided for by the regulations, and to regulate their proceedings by the opinion of those officers.

Courts to be guided by such opinions although they disapprove of them.

How to proceed in such cases.

XXIII. The judges of the *Courts of Circuit* are to refer to the cauzy or mufty of their respective courts, all questions on points of law that may arise during the course of any trial, and respecting which no specific rules may have been enacted by the Governor in Council, and shall regulate *their* proceedings by the opinions which may be so delivered. Where such opinion shall appear to the judge contrary to the principles of natural justice, or to the Mahomedan law, *they* are nevertheless (in cases not provided for by the regulations) to be guided by them; and after completing the trial, and obtaining the futwah of the law officers upon the case, *they* shall, without passing sentence upon it, transmit the proceedings and futwah to the Foujdarry Adawlut, with a separate letter stating *their* objections to such opinions or futwah, and wait the sentence of that court.

See Secs. xxxi. and xxxii., Act VII., 1843.

XXIV. [Provision for the law officer of the Zillah Court officiating for the law officer of the Court of Circuit.]—*Superseded. See Sections XXXI. and LI., Act VII.*, 1843.

XXV. [Courts how to proceed when law officers declare the evidence inadmissible.]—*Rescinded by Section VII., and see Section VIII., Regulation I.*, 1825.

Courts of Circuit to state their opinions on the merits of all cases on which they are directed not to pass sentence.

XXVI. In all cases in which the *Courts of Circuit* are directed not to pass sentence, the judges *are* to accompany the record of the trial ordered to be transmitted to the Foujdarry Adawlut, with a letter containing their opinion on the merits of the case.

Court to transmit all trials in capital cases, with translates, to the Foujdarry Adawlut as early as possible, but always within ten days.

XXVII. The *Courts of Circuit* are to transmit to the Foujdarry Adawlut copies, and translates in English, of the proceedings on the trial of all prisoners whom *they* may sentence to suffer death, or who may in *their* opinion be deserving of capital punishment, within ten days after the trial is completed, or as much earlier as from the state of business may be practicable.

XXVIII. [Punishment for contempt of Court.]—*Rescinded by Section VII., Regulation XIII.*, 1832.

Incapacity or misconduct in public duty or profligacy in private behaviour in the law

XXIX. The *Courts of Circuit* are to report to the Foujdarry Adawlut, every instance in which it shall appear to them that the cauzies or mufties of their respective courts have shewn incapacity for their offices, or have

been guilty of misconduct in the performance of their duty, or of any acts of profligacy in their private conduct.

officers to be reported to the Foujdarry Adawlut.

See Note to Cl. 6, Sec. xviii.

XXX. The *Courts of Circuit* are to report to the Foujdarry Adawlut every instance in which it shall appear to them that the *magistrates* have been guilty of neglect or misconduct in the discharge of their duty. The *courts* are also to acquaint the Foujdarry Adawlut, whenever the *magistrates* omit or refuse to obey their orders.

Neglect or misconduct of the *magistrate* to be reported by the courts to the Foujdarry Adawlut.

See Note to Cl. 6, Sec. xviii. of this Reg., and Secs. xlviii. and xlix., Act VII., 1843.

XXXI. No judge is to absent himself from his station without the previous sanction of the Foujdarry Adawlut.

[Judge not to omit going circuit.]—*Superseded.*

No judge to absent himself from his station without leave.

XXXII. The *judges of circuit* are to visit the jails *on every circuit*, and they are to issue to the *magistrates* such orders as may appear to them advisable, for the better treatment and accommodation, or security of the prisoners.

Judges to visit the jails.

XXXIII. The judges are to submit to the Foujdarry Adawlut such rules as may appear to them calculated for the better regulation of the trials of prisoners, the administration of justice, or the police of the country.

Courts to submit to the Foujdarry Adawlut such propositions as may appear to them expedient.

XXXIV. If any person or persons of the Sutar caste, or of any other caste or persuasion, within the Company's provinces, shall hereafter put any person to death, on the ground of his or her being versed in and practising sorcery, such person or persons, on being convicted of the crime, shall be held guilty of murder, and be invariably punished accordingly; and if any persons shall either actually form themselves into an assembly, for the purpose of trying any man or woman on a charge of witchcraft, or on any other charge, or shall cause such assemblies to be held, and any person or persons shall in consequence be put to death, they shall be considered as accomplices in the murder, and be dealt with accordingly.

Sutars or others convicted of putting to death any person as a sorcerer to be held guilty of murder and punished accordingly.

Persons holding an assembly for the trial of witchcraft to be considered accomplices.

See Foot Note to Sec. xv.

XXXV. To facilitate the re-apprehension of convicts sentenced to *confinement for life*, who may make their escape from jail, all convicts of this description are to have the following particulars inscribed on their foreheads, viz., their name, the crime of which they may have been convicted, the date of the sentence passed against them, and the name of the division by the court of which it may have been passed. This inscription is to be made by the process termed godena, by which the Hindoo women ornament their faces, and which leaves a blue mark that cannot be effaced, without tearing off the skin.

Convicts sentenced to confinement for life to be marked on the forehead by the process termed godena.

XXXVI. The *Courts of Circuit* are required by Section XXVII. to transmit to the Foujdarry Adawlut copies and English translates of their proceedings, on the trial of all prisoners whom they may sentence to suffer death, or who may in their opinion be deserving of capital punishment, within ten days after the trial is completed, or as much earlier as from the state of business may be practicable. They are further directed, in the transmission of trials to the Foujdarry Adawlut, to give a preference,

Courts of Circuit, if practicable, to transmit those trials first to the Foujdarry Adawlut on which the prisoners have been sentenced to capital punishment.

as far as practicable, to those trials on which the prisoner or prisoners may have been sentenced to capital punishment, or may be liable to suffer such under the regulations: and whenever the other duties of their *register and assistants* will not admit of their preparing the translates of trials referrible to the Foujdarry Adawlut with the requisite expedition, they are authorized to employ any person or persons possessing an adequate knowledge of the language, to make the translates, and to settle with them such compensation for their trouble in translating each trial as may be considered equitable, regulating the amount according to the number of sheets, or in such other mode as they may judge best calculated to prevent any undue charge, and transmitting to the Governor in Council a monthly contingent bill for the expense. The *judge of circuit* before whom the trial may have been held is, however, in all instances to examine and attest the translate, and will be held responsible for its accuracy.

In cases of emergency *Court of Circuit* authorized to employ persons properly qualified to translate trials referrible to the Foujdarry Adawlut.

Manner of settling the compensation to be allowed.

Contingent bill to be transmitted to the Governor in Council.

The judge of *circuit* to attest and to be responsible for the translation.

See Sec. ii., Reg. IV., 1828.

XXXVII. The *judges of the Courts of Circuit, on their return from each circuit*, are to transmit to the Foujdarry Adawlut a report containing such observations as they have made *during the circuit*, regarding the effect of the present system for administering the criminal laws, in the prevention and punishment of crimes, as well as respecting the state of jails, the treatment and employment of the prisoners, and such other matters as they may think deserving the notice of the court.

Judges *after each circuit* to report their observations on the effect of the system, the state of the jails, and other particulars.

XXXVIII. The *Courts of Circuit*, in the transmission of their proceedings to the Foujdarry Adawlut, are to be guided by such forms and instructions as they may receive from that court.

Court of Circuit how to be guided in the transmission of their proceedings.

XXXIX. *First.* No pecuniary compensations, nor sums as damages, shall be adjudged to or be recoverable by individuals in any criminal prosecution, nor shall any fines be imposed by any court of criminal jurisdiction, save and except to the use of Government: and whenever a fine to the use of Government shall be imposed, the court which may pass the sentence shall at the same time, weighing all the circumstances of the case, fix a definite period of imprisonment to be held as equivalent to the fine, at the expiration of which the persons convicted shall be discharged, although they should have omitted to pay the fine. The imprisonment awarded by the *Courts of Circuit* under this section, as an equivalent for fines imposed by them, shall be temporary in all cases, and not for life; and their sentences shall be executed without reference to the Foujdarry Adawlut.

Modified by Act XXX., 1835.

Pecuniary compensations and sums as damages to individuals not in future to be recoverable in nor to be adjudged by the criminal courts, and no fines to be imposed but to the use of Government with a definite period of imprisonment to be held as equivalent to the fines imposed.

Second. Whenever the law officers of the *Courts of Circuit* shall declare prisoners liable to deyut, or pecuniary fines of any kind, for any other acts than murder, and the several descriptions of homicide specified in Section XV., the *Courts of Circuit* shall, at their discretion, commute such deyut, or fines, to imprisonment for such period as they may think adequate to the offence; and their sentences in such instances shall be carried into execution without reference to the Foujdarry Adawlut, if for temporary imprisonment, or referred to that court, if for *imprisonment for life*, which shall at its discretion confirm the said sentences, or mitigate, or entirely remit the imprisonment awarded.

Courts of Circuit empowered in certain cases to commute sentences for deyut and fines, to imprisonment for a term *or for life*; but when *for life*, their sentences referrible to the Foujdarry Adawlut.

See FootNote to Sec. xv.

Third. Nothing contained in this section shall be construed so as to

This section not to prevent the restitution

prohibit the restitution to the lawful owners of stolen property, recovered and produced before the magistrates and *Courts of Circuit;* nor to restrict the criminal courts from adjudging a reimbursement of costs actually incurred, upon a prosecution before them, by either of the parties thereto, in particular instances, wherein they may consider such reimbursement just and equitable.

of stolen goods produced before the magistrates and *Courts of Circuit*, nor a reimbursement of costs in particular instances.

XL. [Trial and punishment of perjury.]—*Rescinded by Section II., Regulation VI.*, 1811.

See Note to Cl. 6, Sec. xviii.

XLI. *First.* The judges *of the Courts of Circuit, before whom the half-yearly jail deliveries for the several zillahs may be held* shall, as soon as possible after the close of any trial referable to the Foujdarry Adawlut, and with no further delay than may be necessary to transcribe the proceedings held thereupon, transmit to the court of Foujdarry Adawlut a complete and exact counterpart of the original record of all proceedings held, and papers received, relative to such trial, with an English letter, stating their opinion on the evidence, and on the guilt or innocence of the prisoners. The record to be so transmitted is to be authenticated by the signature of the judge and seal of the law officer before whom the trial may have been held; and is to include the whole of the proceedings held before the *Court of Circuit*, with every examination, exhibit, or material paper of whatever denomination, taken by or delivered to that court; and the Persian translations of all examinations taken down in any other language than the Persian, in conformity to Section XVIII. The whole of the proceedings and papers received from the *magistrate* upon the case referred, are also to be annexed to, and transmitted with, the proceedings of the *Court of Circuit;* but any variations between the depositions of the witnesses before the *magistrates* and *Courts of Circuit*, are to be carefully noticed on the proceedings of the latter, as directed in Clause Sixth, Section XVIII.; and any confessions of the prisoners before the *magistrate*, any inquest taken in cases of homicide, or any other evidence appearing on the proceedings of the *magistrates*, are to be entered with the necessary proofs on the proceedings of the *Court of Circuit.*

Judges of *circuit* to transmit to the Foujdarry Adawlut, as soon as possible after the close of trials referable to that court, a counterpart of the original record with an English letter stating their opinion on the case.

In what manner such record is to be authenticated, and what it is to contain.

Proceedings and papers received from the *magistrates* to be also transmitted.

But variations in the depositions of witnesses, confessions of prisoners before the *magistrates*, inquests, and other evidence on the proceedings of the *magistrates*, to be entered, with proofs, on the proceedings of the *Courts of Circuit.*

Second. The translator to the Foujdarry Adawlut, on receipt of the trials transmitted to that court under this section, shall, as soon as possible, make or cause to be made by his assistants, a true and faithful translation into the English language of the whole of the proceedings held before the *Court of Circuit*, with any confessions of the prisoners before the *magistrate*, and such other parts of the *magistrate's* proceedings as may have been entered upon the proceedings of the *Court of Circuit.* If the translator to the Foujdarry Adawlut and his official assistants be unable, on any particular occasion, from the pressure of other business, to make an early translation of the proceedings and papers so received, he may, with the court's sanction, cause the same to be translated by any other competent person [*at the rates established by Section XXXIII., Regulation IV.*, 1802]; and the person making such translations, who is to subscribe his signature thereto, shall be held responsible for their accuracy. But no translation is to be made by any other person than the Persian translator to the Foujdarry Adawlut and his official assistants, without the sanction of the court.

Rescinded by Sec. ii., Reg. IV., 1828.

The translator to the Foujdarry Adawlut to make or cause to be made English translations of the proceedings of the *Courts of Circuit* transmitted under this section as soon as possible after the receipt thereof.

And if unable with his assistants to make an early translation, may, with the sanction of the court, cause the same to be made by any competent person *at the rates established by Sec. xxxiii., Reg. IV.*, 1802.

Restriction.

A.D. 1802. REGULATION VIII.

[FRAMED UPON THE LATTER PART OF REGULATION IX., 1793, OF THE BENGAL CODE.]

A REGULATION* *for establishing a Foujdarry Adawlut, or chief criminal court, for the trial of criminal cases in the last resort:* PASSED *by the Governor in Council of Fort St. George, on the* 1*st of January*, 1802.

IN order that an uniformity of decision may be preserved throughout the several Courts of Circuit, and for the better regulation of whatever relates to criminal cases, and the police of the country, the following rules have been enacted :—

Foujdarry Adawlut to be held at Fort St. George

II. The Foujdarry Adawlut, or superior criminal court, shall be held at Fort St. George.

III. [Constitution of the Court.]—*Rescinded by Section II., Regulation IV.*, 1806. *See Regulation III.*, 1807, *and Sec. IV., Reg. III.*, 1825.

Court to meet once every week, or as often as may be necessary.

IV. The court shall meet once in every week, or as often as the state of the business may require; and a regular diary shall be kept of their proceedings.

Register to be appointed to the court.

V. The court shall have a register, who shall be styled Register to the Foujdarry Adawlut.

Oath to be taken by the register.

VI. The register, previous to entering upon the execution of the duties of his office, shall take and subscribe, before the Foujdarry Adawlut, an oath similar to that prescribed for the [*registers to the Courts of Circuit*].

See Act XXI, 1837

See Sec. vi., Reg. VII., 1802.

Oath to be taken by the head cauzy and two mufties.

VII. The head cauzy and the two mufties, previous to entering upon the duties of their offices, and on the 1st of January and 1st of July in each year, shall take and subscribe oaths, similar to those prescribed for the law officers [*of the Courts of Circuit*].

See Act XXI., 1837.

See Secs. viii. and ix., Reg. VII., 1802.

Court to have cognizance of all matters relating to the administration of criminal justice and the police.

VIII. The court is empowered and directed to take cognizance of all matters relating to the administration of justice in criminal cases and the police of the country; and to submit to the Governor in Council such *regulations* regarding them as it may deem advisable.

Sentences of the court to be conformable to the Mahomedan law.

IX. The sentences of the court shall be regulated by the Mahomedan law, excepting in cases in which a deviation from it may be expressly authorized by any regulation passed by the Governor in Council.

* By Sec. v., Reg. VIII., 1831, and Secs. xxxiii. and xxxiv., Act. VII., 1843, single judges may with certain exceptions exercise the powers of "the Court."

X.* In trials for murder, the head cauzy and mufties shall deliver their futwahs, or opinions upon the case, according to the doctrines of Yusuf and Mahomed. The distinctions, however, made by those imaums, and by Huneefah, as to the mode of committing murder, shall not be adhered to by the Foujdarry Adawlut; but the intention of the criminal, either evidently or fairly inferable from the nature and circumstances of the case, and not the manner or instrument of perpetration (except as evidence of the intent), shall constitute the rule for determining the punishment. It is further hereby declared, that wilful homicide by poison or by drowning, when the intention of poisoning or drowning may be evident, is included in the above rule; and that in all such cases the Foujdarry Adawlut (whatever may be the futwah of their law officers) are to sentence the prisoner to suffer death, provided they judge him fully convicted of express murder, subject to such recommendation for mercy as they may think proper.

In cases of murder, the law officers to deliver their opinions according to Yusuf and Mahomed.

Their distinctions as to the mode of committing murder not to be attended to except as evidence of the intent.

The intention of the criminal to be the rule for determining the punishment.

Cases of wilful homicide by poisoning or drowning to be held murder.

XI.* In all cases referred under Section XV., Regulation VII., 1802, to the Foujdarry Adawlut, the law officers of that court, provided they shall be of opinion that the prisoner is duly convicted of murder, shall write their futwah upon the case referred to the law officer of the *Court of Circuit*, assuming always that all the heirs of the slain entitled to prosecute for kissaas attended, and prosecuted at an age which rendered them competent to demand kissaas, and that they demanded kissaas. But if they shall be of opinion that the prisoner is not duly convicted of express murder, they are to state their reasons for such opinion, and whether they consider the prisoner altogether innocent, or convicted of homicide under any of the four denominations distinguished by the Mahomedan law, adding in the latter case, the legal penalty to which the prisoner is liable; and the Court of Foujdarry Adawlut, after considering their futwah so given, with the whole of the proceedings on the case, are either to require further evidence, if they see occasion, or to pass such final sentence as may appear consonant to justice, and conformable to the Mahomedan law, with the exceptions and modifications authorized by the regulations. If in any case not provided for by the regulations, the Mahomedan law appears to the court repugnant to natural justice, they are notwithstanding to adhere thereto, if in favour of the prisoner, in the case before them; or if against the prisoner, [*to recommend*] a pardon or mitigation of the punishment [*to the Governor in Council*], and at the same time to propose *a new regulation* to provide against a recurrence of the case.

In what manner the law officers of the Foujdarry Adawlut are to deliver in their futwahs.

In what manner they are to deliver their futwah should they be of opinion that the prisoner is not convicted of express murder.

Foujdarry Adawlut either to require further evidence or to pass final sentence.

In what respect the Mahomedan law is to be adhered to.

Superseded by Cl. 2, Sec vi., Reg. I, 1825.

XII. [All trials to be referred to the law officers for their futwah before they are submitted to the court.]—*Superseded by Act I.*, 1840.

XIII. The register within three days after passing of the final sentence, or sooner if practicable, shall transmit a copy of it under the seal of the Foujdarry Adawlut, and attested with his official signature, to the judge

Register to transmit the copy of the final sentence to the Court of Circuit.

* It is enacted by Act I., 1840, that the Foujdarry Adawlut shall not be required to take a futwah from their law officers in cases referred to that court, but that the Mahomedan law shall not be dispensed with in cases theretofore determinable by that law.—See the Act referred to.

of the *Court of Circuit*, who is immediately to issue a warrant to the proper *magistrate*,* to cause the sentence to be carried into execution. The *magistrate*,* upon the receipt of the warrant, shall cause the sentence to be executed without delay, and return the warrant to the *Court of Circuit*, with an indorsement, attested with his official seal and signature, certifying the manner in which the sentence has been executed. All warrants so returned are to remain with the *Court of Circuit*, excepting warrants for the infliction of capital punishment, which are to be forwarded by the judges to the Foujdarry Adawlut.

See Secs. xlviii. and xlix., Act VII., 1843.

Magistrate to cause the sentence to be executed immediately upon the receipt of the warrant.

What returned warrants are to be sent to the Foujdarry Adawlut.

Recommendations for pardon how to be made.

XIV. Where a criminal who may be sentenced to suffer death shall appear to the Foujdarry Adawlut to be a proper object for mercy, they shall submit his case to the Governor in Council; and, according to the circumstances of it, either recommend a pardon to be granted to him, or such commutation of the punishment as to the court may seem proper.

In what cases of murder the Foujdarry Adawlut may pass sentence of death, although the futwah of their law officers declare the prisoner not liable to kissaas

XV. In every case of express murder, wherein the crime may appear to the Court of Foujdarry Adawlut to have been fully established against the prisoner, but the futwah of the law officers of that court shall declare the prisoner not liable under the Mahomedan law to suffer death by kissaas, solely on the ground of the prisoner's being father or mother, grandfather or grandmother, or other ancestor of the slain; or of the heir of the slain, or one of the heirs of the slain, being the child or grandchild, or other descendant of the prisoner; or of the slain having been the slave of the prisoner, or of any other person, or a slave appropriated for the service of the public; or on any similar ground of personal distinction and exception from the general rules of natural justice, the Court of Foujdarry Adawlut (provided they see no alleviating circumstances in the case) shall sentence him to suffer death as if the futwah of their law officers had declared him liable to kissaas, or to suffer death by seeasut, as authorized by the Mahomedan law in all cases of express murder, under the discretion vested in the magistrate with regard to this principle of punishment for the ends of public justice.

See Note to Sec. x.

Desire of the party slain to be put to death no justification of wilful homicide after the period fixed for enforcement of this Regulation.

XVI. After the period fixed for the enforcement of the restrictions contained in this section, it shall not justify any prisoner convicted of wilful homicide, that he or she was desired by the party slain to put him or her to death; and in the event of the prisoner being convicted of the fact to the satisfaction of the Foujdarry Adawlut, and of their seeing no alleviating circumstances in the case, they shall sentence him or her to suffer death, whatever may be the futwah of their law officers under the Mahomedan law; which in this instance also, although it withholds kissaas, gives a full latitude to the magistrate in the discretionary punishment of tazeer or seeasut.

See Note to Sec. x.

What sentence to be passed by Foujdarry Adawlut against per-

XVII. If the futwah of the law officers of the Foujdarry Adawlut declare any person convicted of express murder not liable to suffer death

See Note to Sec. x.

* By Sec. xxxix., Reg. X., 1816, such parts of this section and Secs. xviii. and xxiv. as relate to the Magistrate, were declared applicable to the Criminal Judge only, whose duties are now discharged by the Subordinate Judge and Principal Sudder Ameen.

under the Mahomedan law, on the ground of one or more of his accomplices being exempted from kissaas, under any of the circumstances recited in Sections XV. and XVI., or on any similar ground of exemption, the Court of Foujdarry Adawlut shall, notwithstanding such futwah, sentence the prisoner to suffer death, if in their judgment he be duly convicted, and there shall appear no alleviating circumstances in the case. And wherever the accomplice in an express murder, though not the principal perpetrator of the murder, shall appear to the Foujdarry Adawlut fully convicted and deserving of death, they are authorized, under the discretion given by the Mahomedan law, in such cases, to sentence the prisoner to suffer death, whether the futwah of their law officers declare the same or otherwise.

sons convicted of express murder but declared not liable to death under the Mahomedan law on the ground of their accomplices being exempted from kissaas.

Accomplices in express murder, though not the principal perpetrators, may be sentenced by Foujdarry Adawlut to suffer death.

XVIII.* The Foujdarry Adawlut are *authorized*, under the discretion in this respect allowed by the Mahomedan law, to order any prisoner sentenced to imprisonment for life [*or for a limited period, the same being for seven years or upwards*], to be transported to some place beyond sea; and the zillah magistrates, at every *jail delivery*, are to cause a written proclamation to be read and affixed in their cutcherries, as well as in the cutcherries of their police officers, notifying, that all persons who may be sentenced to be confined for life [*or for a term of seven years and upwards*], for murder, decoiting, robbing, or plundering, or burning houses or property, or any other crime of a heinous nature, will be *liable* to transportation to some place beyond sea, by order of the Foujdarry Adawlut, to which court a reference is to be made by the *Courts of Circuit* in all instances *wherein they shall consider the parties convicted to be proper objects for transportation under the sentences passed against them for imprisonment.*

Foujdarry Adawlut authorized to order transportation beyond sea.

Magistrates to issue a proclamation at every jail delivery notifying that prisoners who may be under sentence for heinous offences will be transported.

Court of Circuit to make a reference to the Foujdarry Adawlut whenever they may think the prisoner a proper object for transportation.

XIX. [Court may recommend to Government a pardon or mitigation of punishment when the futwah allows no discretion.]—*Rescinded by Clause* 1, *Section VI., Regulation I.*, 1825.

XX. In cases of a heinous nature, such as murder, gang-robbery, arson, and the like, wherein the crime may be known to have been committed by several persons, the principal of whom may not have been apprehended or convicted, if, on the representation of the zillah magistrates or judges of the *Courts of Circuit*, it shall appear to the Foujdarry Adawlut that an offer of pardon to one or more of the supposed accessaries, on condition of their making a full disclosure of every circumstance within their knowledge relative to the commission of the crime, and the several persons concerned in it, may lead to the apprehension or conviction of the principal offender or offenders, *the court are to submit the case to the Governor in Council, who, if he approve the same, will authorize such offer of pardon;* and, on the condition of it being fulfilled, the Court of Foujdarry Adawlut are to confirm it by a written certificate, or testimonial, under the signature of their register and the seal of the court, to be delivered to the party or parties for his or their security as far as regards the act or acts therein referred to.

The Foujdarry Adawlut may recommend a pardon to accessaries in crimes of a heinous nature for the apprehension or conviction of the principal offenders.

Modified by Sec. xii., Reg. XIII., 1832.

In what manner such pardon is to be granted.

* Transportation limited to convicts sentenced to imprisonment for life, by Cl. 1, Sec. viii., Reg. XV., 1803, and required generally in such cases by Act XIV., 1844.

Judges of the *Courts of Circuit* and zillah magistrates to report cases in which a pardon for the above purposes should be offered.

XXI. The judges of the *Courts of Circuit*, and the several zillah magistrates, are to report to the Foujdarry Adawlut whenever it may appear to them expedient to tender an offer of pardon for the purpose stated in the foregoing section, communicating at the same time all the information they may possess respecting the circumstances of the case, as well as the measures taken to apprehend or convict the offenders, for whose apprehension or conviction the proposed pardon may be recommended.

XXII. [Punishment of convicts escaping from confinement.]—*Rescinded by Section IX., Regulation XV.*, 1803. *See Section V., Regulation VI.*, 1822.

Guards having the custody of convicts who escape to what punishment liable for neglect or connivance.

XXIII. All guards of whatever description having had in charge convicts* who may have escaped, and who may appear on the magistrate's inquiry to have been guilty of wilful neglect, are to be immediately dismissed from the public service; and should any connivance or further criminality appear against them, are to be committed or held to bail, according to the circumstances of the case, for trial before the *Court of Circuit*, that, on conviction, they may receive the punishment which the law directs.

* Or prisoners for trial. See Sec. vii, Reg I., 1810

Foujdarry Adawlut how to proceed on such reports

XXIV. [Power of Foujdarry Adawlut to suspend judges.]—*Rescinded by Section III., Regulation V.*, 1828.

Superseded by Act XIII., 1843.

[*The Court of Foujdarry Adawlut is further authorized and directed to proceed upon reports from the Courts of Circuit of neglect or misconduct by the zillah magistrates made in pursuance of Section XXX., Regulation VII., of* 1802, *as well as upon reports from the Court of Circuit and zillah magistrates of neglect or misconduct by their registers or assistants, or other ministerial officers, made in pursuance of Section XIII., Regulation XII.*, 1802, *in the same manner as the Court of Sudder Adawlut is authorized and directed by Section XXXIX., Regulation V.*, 1802, *to proceed upon similar reports to that court of neglect or misconduct on the part of the judges of the Zillah Courts or of the registers, assistants, and other ministerial officers of those courts, or of the Provincial Courts of Appeal*]; and in all cases wherein a covenanted servant of the Company employed in any of the Criminal Courts, or in any office of police, may appear to the Foujdarry Adawlut to have been guilty of neglect of duty, or of other misconduct, not expressly provided for by the regulations, that court is either to report the same to the Governor in Council, or to advise and admonish the party, as the case may require, under the provisions contained in Section XXXIX., Regulation V., 1802; the whole of which is declared applicable to such cases.

From what date new criminal laws to be in force.

XXV. Whatever parts of this, or any other regulation, may be found to innovate upon the known and established criminal laws of the natives, the same shall not be held in force until six months from and after the date of its being enacted and published.

A.D. 1802. REGULATION IX.

A REGULATION *for empowering the Judges of the Zillah Courts, the Magistrates, the Judges of the Provincial Courts of Appeal, the Judges of the Courts of Circuit, the Judges of the Sudder, Civil, and Criminal Courts of Adawlut, and the Board of Revenue, and Board of Trade, to propose Regulations regarding matters coming within their cognizance:* PASSED *by the Governor in Council of Fort St. George, on the* 1st *of January,* 1802.

[Rescinded by Section II., Regulation VIII., 1819.]

A.D. 1802. REGULATION X.

A REGULATION *for the appointment of Vakeels, or Native Pleaders, in the Courts of Civil Judicature:* PASSED *by the Governor in Council of Fort St. George, on the* 1st *of January,* 1802.

[Rescinded by Section II., Regulation XIV., 1816.]

A.D. 1802. REGULATION XI.

[FRAMED UPON REGULATION XII., 1793, OF THE BENGAL CODE.]

A REGULATION *for the appointment of the Hindoo and Mahomedan law officers of the Civil and Criminal Courts of Judicature:* PASSED *by the Governor in Council of Fort St. George, on the* 1st *of January,* 1802.

IT is essential to the due administration of justice, that the law offices in the Courts of Judicature should be held by men of integrity, well versed in the laws; and that they should be so constituted, as to render persons possessing the requisite qualifications solicitous to obtain them, and to afford every encouragement to such persons, when appointed, to continue to discharge their duty with uprightness. It is likewise necessary, upon general principles, that the law officers should be subject to penalties for misconduct, in order that they may be deterred from abusing

their important trusts. The following rules have been accordingly enacted :—

Law officers of the civil and criminal courts to be appointed by the Governor in Council.

In what cases removable.

II. The law officers of the Sudder Adawlut, the Foujdarry Adawlut, [*the Provincial Courts of Appeal, the Courts of Circuit, and the Zillah Courts,*] are to be appointed by the Governor in Council,* and shall not be removable but for incapacity or misconduct in the performance of their public duty; or for any act of flagrant profligacy in their private conduct proved to *his* satisfaction.

Modified by Sec. iii., Reg. VII., 1822, and Sec. li., Act VII., 1843. See Sec. ii., Act XXVII., 1836.

Qualifications for the law officers.

III. The law offices in the several courts are to be conferred on persons well versed in the laws, and of unblemished moral characters.

See Act XXVII., 1836.

Who shall be law officers to the superior courts.

IV. The cauzy and mufties to the Sudder Adawlut shall be the cauzy and mufties to the Foujdarry Adawlut; and the cauzy and mufty of the *Provincial Courts of Appeal of each division* shall be the cauzy and mufty to the *Court of Circuit of the same division.*

Modified by Sec. li., Act VII., 1843.

Oath to be taken by the Mahomedan law officers of the civil courts of judicature previous to their entering upon their offices.

V. *First.* The Mahomedan law officers of the Courts of Civil Judicature, previous to entering upon the execution of the duties of their offices, are to take and subscribe the following oath, before the court to which they may be respectively attached :—

See Act XXI., 1837.

"I, A. B., cauzy (or mufty) to the Sudder Adawlut, or the *Provincial Court of Appeal for the division of* , *or the Court of Adawlut of the zillah of* , solemnly swear, that I will truly and faithfully perform the duties of cauzy (or mufty) of this court, according to the best of my knowledge and ability; that I will not receive, directly or indirectly, any present or nuzzer, in money or effects of any kind, from any party or person whomsoever, on account of any suit to be instituted, or which may be depending, or has been decided in the court of which I am cauzy (or mufty); and that I will not, directly or indirectly, derive any advantage or emolument from my office, excepting such as the orders of Government do or may authorize me to receive."

Oath to be taken every six months.

Second. At the expiration of every six months, that is, on the 1st of January, and the 1st of July, in each year, the cauzies and mufties of the Courts of Civil Judicature are to take and subscribe the following oath, before their respective courts :—

"I, A. B., cauzy (or mufty) to the Sudder Adawlut (*or the Provincial Court of Appeal for the division of* , *or the Court of Adawlut of the zillah of*), solemnly swear, that from the 1st of January to the 30th of June last (or from the 1st of July to the 31st of December

* The law officers of the Sudder Court continue to be appointed and removed by the Governor in Council. Charges of misconduct against them are to be prosecuted under the provisions of Act XIII., 1843. The law officers of the new Zillah Courts are declared by Sec. li., Act VII., 1843, to be subject to the same rules as the law officers of the *Provincial Courts of Appeal*, who, by Cl. 2, Sec. iii., Reg. VII., 1822, are placed under the authority of the Sudder Court. The Subordinate Courts, established under Regs. I. and II., and VII. and VIII., 1827, have no law officers attached to them. See Sec. viii., Reg. I., and Sec. v., Reg. VII., 1827.

last), I have truly and faithfully executed the duties of cauzy (or mufty) of this court, to the best of my knowledge and ability; that I have not received, directly or indirectly, any present or nuzzer, in money or effects of any kind, from any party or person whomsoever, on account of any suit which has been, or is to be instituted; or is depending, or has been decided in the court of which I am cauzy (or mufty), and that I have not, directly or indirectly, derived any advantage or emolument from my office, excepting such as the orders of Government authorize me to receive."

See Act XXI., 1837.

Mahomedan law officers of the Sudder Adawlut, the Foujdarry Adawlut, and the *Provincial* Courts, to take the prescribed oath.

VI. The Mahomedan law officers of the Sudder Adawlut, the Foujdarry Adawlut, and the *Provincial Courts of Appeal*, are to take the oaths prescribed in Regulation VII., 1802, in their respective capacities of law officers to the *Courts of Circuit*.

Declaration to be made by the pundits to the courts of civil judicature.

VII. The pundits to the Courts of Civil Judicature, previous to entering upon the execution of the duties of their offices, are to make and subscribe the following declaration before the courts to which they may be respectively attached:—

"I, A. B., pundit to the Sudder Adawlut, or the *Provincial Court of Appeal for the division of* , *or the Court of Adawlut of the zillah of* , solemnly declare, that I will truly and faithfully execute the office of pundit of this court, according to the best of my knowledge and ability; that I will answer all such questions as may be put to me in writing, or orally, by the said court; that I will declare or give in writing what is in the Shaster; that I will not declare or give in writing what is not warranted by the Shaster; that if I declare any thing not warranted by the Shaster, I shall be deserving of punishment from Ishwar. I promise and swear that I will not receive, directly or indirectly, any present or nuzzer, in money or effects of any kind, from any party or person whomsoever, on account of any suit to be instituted, or which may be depending, or has been decided in the court of which I am pundit; and that I will not, directly or indirectly, derive any advantage or emolument from my office, excepting such as the orders of Government do or may authorize me to receive."

Courts how to proceed in charges of corruption or extortion that may be preferred against law officers.

VIII. *First.* The rules prescribed in Section XII., Regulation XII., 1802, respecting charges of corruption or extortion lodged against the native ministerial officers of the Civil and Criminal Courts, are to be held applicable to charges of a similar nature that may be preferred against the Hindoo or Mahomedan law officers of the *several* courts,* with the following qualifications.

An appeal to lie to the Sudder Adawlut from all decisions whatever passed by the *Provincial Courts of Appeal* under this section.

Second. An appeal shall lie to the Sudder Adawlut from all decisions which may be passed by the *Provincial Courts of Appeal*, whereby a charge of corruption or extortion against any law officer may be decreed not proved, or by which any such charge may be adjudged to be proved, whatever may be the amount decreed to be paid, notwithstanding any thing that may appear to the contrary in any other regulation.

Cases in which decrees passed by the *Pro-*

Third. No decree passed by any [*Zillah Court, or any*] *Provincial*

* The rules of this section remain applicable to the law officers who may be appointed to the new Zillah Courts, under Sec. li., Act VII., 1843.

vincial Courts or the *Zillah* Courts on such charges are not to be enforced

Court of Appeal, adjudging a Hindoo or Mahomedan law officer guilty of corruption or extortion, shall be carried into execution in the event of the law officer against whom such decree may be passed appealing from the decree and giving the securities [required by Section XII., Regulation IV., 1802, and Section X., Regulation V., 1802], in cases of appeals from decisions for sums of money passed by those courts respectively, and the execution of which they are empowered to suspend upon such securities being given.

See those sections for the modifications by which they are affected.

Fourth. [Zillah Courts to send copies of their decrees against law officers to the Governor in Council.]—*Superseded; there being no law officers in the Subordinate Courts which now take the place of the old Zillah Courts.*

Provincial Courts are to transmit such decrees to the *Governor in Council.*

Fifth. The *Provincial* Courts are to enforce, by the usual process, all decrees which they may pass adjudging their own law officers [*or the law officers of any Zillah Court*] guilty of corruption or extortion, that may not be appealed against within the limited period, and transmit copies of the decrees to the [*Governor in Council*].

See Note to Sec. ii.

Sixth. [Sudder Adawlut to submit such decrees to the Governor in Council.]—*Superseded by Regulation VII.*, 1822, *and Act XIII.*, 1843.

Power reserved by the *Governor in Council* in cases of law officers being convicted of corruption or extortion.

Seventh. The *Governor in Council*, upon the receipt of any decree adjudging a law officer of a civil or criminal court guilty of corruption or extortion, which may be transmitted to him under this section, reserves to *himself* the power of dismissing the offender from his office, or of both dismissing him from his office and declaring him incapable of exercising any employment under Government. The *Governor in Council* likewise reserves to *himself* the power of suspending *any law officer* against whom a charge of corruption or extortion may be preferred, until a final decision shall be passed on the charge, whenever it may appear to *him* expedient, either upon the representation of any of the Courts of Judicature, or in consequence of any other information which may come before *him.*

See Note to Sec. ii.

Final decrees adjudging such charges not proved to be transmitted to the *Governor in Council.*

Eighth. When a *Provincial Court of Appeal* [*or a Zillah Court*] shall adjudge a charge of corruption or extortion that may have been preferred against any law officer, not to be proved; and the prosecutor shall not appeal from the decree within the limited time, the court is to transmit a copy of it to the [*Governor in Council*]. [*The Sudder Adawlut, within the above-mentioned period, are to transmit to the Governor in Council copies of all decrees which they may pass, whereby any charge of corruption or extortion that may have been preferred against any law officer, may be adjudged not proved.*]

See Note to Sec. ii.

Vacancies how to be noticed.

IX. Upon a vacancy occurring *in any law office* in a Court of Judicature by death or resignation, the court is to report the vacancy to the *Governor in Council*, and recommend a person duly qualified to fill it.

See Note to Sec. ii.

A.D. 1802. REGULATION XII.

[FRAMED UPON REGULATION XIII., 1793, OF THE BENGAL CODE.]

A REGULATION *for the appointment of the Ministerial Officers of the Civil and Criminal Courts of Judicature:* PASSED *by the Governor in Council of Fort St. George on the* 1*st of January*, 1802.

THE following rules have been enacted for the appointment of the ministerial officers of the Civil and Criminal Courts of Judicature, and for regulating their respective duties; including also provisions for receiving and trying any charges of corruption or extortion that may be preferred against them, or any private servants or dependants of the judges of the courts.

II. [Native officers of courts how to be removed.]—*Rescinded by Section II., Regulation VII.*, 1822.

Oath to be taken by the registers and their assistants and other ministerial officers.

III. *First.* The registers to the *Courts of Civil Judicature and their assistants,** and all ministerial officers of the courts who may be covenanted servants of the Company, are to be appointed by the Governor in Council. Previous to entering upon the execution of the duties of their respective offices, they shall take and subscribe the following oath, in open court, before the judge or judges of the court to which they may be attached:—

See Act XXI., 1837.

"I, A. B. register (or assistant to the register or other officer) to the Sudder Adawlut [(*or the Provincial Court of Appeal for the division of* , *or the Court of Adawlut of the zillah of*)], solemnly swear, that I will truly and faithfully perform the duties of register (or assistant to the register or other officer) to this court, according to the best of my knowledge and ability; that I will not receive, directly or indirectly, any present or nuzzer, in money or effects of any kind, from any party or persons whomsoever, on account of any suit to be instituted, or which may be depending, or has been decided in the Court of Adawlut of which I am appointed register (or to the register of which I am assistant, or other officer); that I will not knowingly permit any person or persons under my authority, or in my immediate service, to receive, directly or indirectly, any present or nuzzer, in money or effects, from any party or person whomsoever, on account of any suit to be

* The *Provincial* Courts having been abolished, and no registers being attached to the new Zillah Courts established under Act VII., 1843, the rules respecting those officers remain in force only in respect of the register of the Sudder Court and his assistants.

instituted, or which may be depending, or has been decided in the court; that I will not be concerned, directly or indirectly, in the purchase of any goods or commodities in the British dominions under the presidency of Fort St. George, for the purpose of remitting money to Europe, nor in any commercial transactions; and that I will not derive, directly or indirectly, any emoluments or advantages from my station, excepting such as the orders of Government do or may authorize me to receive.

"SO HELP ME GOD."

Registers to the Sudder Adawlut and the *Provincial Courts of Appeal* and other officers to take the prescribed oath.

Second. The registers to the Sudder Adawlut [*and the Provincial Courts of Appeal*] and *their* assistants, and all ministerial officers of *those courts*, being covenanted servants of the Company, in their respective capacities of registers, and assistants to the registers, or officers to the Foujdarry Adawlut [*and the Courts of Circuit*], shall take the oath prescribed in Section VI., Regulation VII., 1802.

Oath to be taken by certain of the native officers of the civil and criminal courts

IV. The serishtadars or other head native officers, moonshees, mohurrers and nazirs of the Civil and Criminal Courts, previous to entering upon the execution of the duties of their offices, shall take and subscribe the following oath, in open court, before the judge or judges of the court to which they may be attached :— See Act XXI, 1837.

"I, A. B., appointed to the office of serishtadar (or other head officer, or moonshee, mohurrer or nazir) to the Sudder Adawlut, or the Foujdarry Adawlut, [*or the Provincial Court of Appeal for the division of* , *or the Court of Circuit for the division of* , *or the Court of Adawlut of the zillah of*], solemnly swear, that I will truly and faithfully perform the duties of the office to which I have been nominated, to the best of my knowledge and ability; that I will not receive, directly or indirectly, any present or nuzzer, in money or effects of any kind, from any party whomsoever, on account of any suit to be instituted, or which may be depending, or has been decided in the court; that I will not knowingly permit any person or persons under my authority, or in my immediate service, to receive, directly or indirectly, any present or nuzzer, in money or effects, from any party or person whomsoever, on account of any suit to be instituted, or which may be depending, or has been decided in the court; and that I will not derive, directly or indirectly, any advantages or emoluments from my office, excepting such as the orders of Government do or may authorize me to receive."

Ministerial officers to perform all such official acts as may be prescribed to them by the judges

V. The registers to the *Civil and Criminal Courts* are to perform all such official acts as may be prescribed to them by the judges of the courts, who are empowered to assign to all ministerial officers attached to *their several courts* the particular duties or business to be performed by them respectively.

VI. to IX. [Rules for reference of suits to be tried by zillah registers, and procedure thereon.]—*Superseded; the office of zillah register being no longer in existence.*

X.* *First. From all decisions in suits for real property, and for money or personal property, [the amount or value of which shall exceed twenty-five Arcot rupees], that may be passed by the [registers to the Zillah Courts], an appeal shall lie to the judges of the Zillah Courts, under similar rules and regulations to those prescribed regarding appeals to the Provincial Courts of Appeal from decisions passed by the judges, with the qualifications specified in the two following clauses.*

In what cases an appeal shall lie from the decision.

Second. The petition of appeal shall be presented within thirty days after the date of the decision, either to the [register] or to the judge; but the judge is empowered to admit the appeal, although the petition should be presented after the prescribed time; provided the appellant shall shew to his satisfaction good and sufficient cause for not having filed the petition within the limited period.

Petition of appeal how to be presented.

Third. On the judge admitting an appeal from the decision of his register, he shall cause to be indorsed on the back of the petition, the word "admitted" (munzoor); and shall have the seal of the court affixed thereto, and attest the indorsement with his signature. He shall cause the petition so indorsed to be sent to [the register], who shall thereupon submit to the judge all the original proceedings and papers in the cause, with his original decree.

Judge how to proceed on admitting an appeal.

XI. The registers *to the Civil and Criminal Courts*, after the rising of the courts, are to procure all acts of the courts to be executed. The assistants to the registers and the native officers attached to the courts are to assist the registers in performing the above-mentioned duties, and in translating and transcribing papers, and in arranging and keeping the records of the courts. The registers and their assistants, and the native officers, are to perform the duties specified in this section, in the manner and conformably to the rules which the judges of the *courts to which they may be respectively attached* may think it proper to prescribe. The native officers of each court are not to interfere in any other manner than as above directed, publicly or privately, in any cause or matter depending before the court, or which may have been, or shall be, intended to be brought before it.

Duties to be performed by the registers, assistants, and native officers.

XII.† *First.* The ministerial officers of the Civil and Criminal Courts (under which designation are comprehended [*the registers and the assistants to the registers, or any other subordinate officers, being covenanted servants of the Company, and*] all native officers attached to the courts, excepting the law officers‡), are declared amenable to the courts to which they may be respectively attached for acts of corruption or extortion; and the courts are empowered to receive any such charges that may be preferred against them. Previous, however, to receiving the charge, the courts are to

Ministerial officers of the courts amenable to their respective courts for corruption and extortion.

‡ See Sec. viii., Reg. XI., 1802.

Oath or declaration to be made and security to be given by the complainant.

* This section is reserved, as applicable to Sudder Ameens under Sec. xv., Reg. VIII., 1816, though its operation in respect of Zillah Registers is superseded by the non-existence of that office. The limitation of the amount appealable does not apply, because an appeal lies to the new Zillah Court from all decisions of Sudder Ameens in original suits.—See Sec. xv., Reg. VIII., 1816, and Sec. viii., Act VII., 1843.

† So much of Sec. xii. as relates to charges of corruption, &c., preferred against ministerial officers of the Civil and Criminal Courts, *being covenanted servants of the Company*, was rescinded by Sec. iii., Reg. II., 1810. That Regulation was repealed by Act XIII. of 1843, which enacted new rules for inquiries into the conduct of European officers and all officers not removable without the sanction of Government.

require the complainant *to make oath to the truth of it* (*or subscribe the required declaration if he shall come within the description of persons whom the courts are empowered to exempt from taking oaths*) and give security in whatever sum they may judge proper, to prosecute the charge without delay. Unless the complainant shall previously *take the oath or* subscribe the above-mentioned declaration, and give the required security, the courts are not to receive the charge.

See Act V., 1840.

Case in which the Sudder Adawlut and the Foujdarry Adawlut are empowered to receive charges against the ministerial officers of the *Provincial Courts of Appeal* and *Courts of Circuit*

How the courts are to proceed if the charge shall not relate to any matter depending before them or decided by them.

Second. The Sudder Adawlut, and the Foujdarry Adawlut, are empowered to receive any charge of corruption or extortion not relating to any suit or matter depending before them, or decided by them, that may be preferred to them against any ministerial officer *of a Provincial Court of Appeal, or a Court of Circuit*, and to refer it to the court to which the accused may be attached by a precept under the seal of the court, and attested by the register; provided the complainant shall prove to their satisfaction that he preferred the charge in the first instance to such court, and offered to make the required *oath or* declaration, and to give the security prescribed in Clause First, and that the court notwithstanding omitted or refused to receive the charge, and shall moreover make the required *oath or* declaration, and enter into the security prescribed in the above-mentioned clause. But if any person shall prefer a charge of corruption or extortion against any ministerial officer of a *Provincial Court of Appeal, or a Court of Circuit*, to the Sudder Adawlut or Foujdarry Adawlut, in any appeal or matter which may be depending, or has been decided in the two last-mentioned courts, the courts may receive the charge and refer it to the *Provincial Court of Appeal, or Court of Circuit* to which the accused may be attached, without further inquiry; provided the complainant shall previously make the *oath or* declaration, and give the security required in Clause First.

How the courts are to proceed if the charge relate to any matter depending before them or decided by them.

Cases in which the Sudder Adawlut is empowered to receive charges against the ministerial officers of any *Zillah* Court

How the court is to proceed if the charge relate not to any matter depending before it or which may have been decided by it.

Third. The Sudder Adawlut is empowered to receive charges of corruption or extortion, not relating to any matter depending before them, or decided by them, that may be preferred to them against any ministerial officer of a *Zillah* Court, and to order the court to which the accused may be attached, by a precept under their seal, and attested by their register, to receive the charge; provided the complainant shall prove to their satisfaction that he preferred the charge in the first instance to such *Zillah* Court, and offered to make the required *oath or* declaration, and give the security prescribed in Clause First; and that the court notwithstanding omitted or refused to receive the charge; and provided also, that the complainant shall further prove to the satisfaction of the court, that, in consequence of such refusal, he preferred the charge to the *Provincial Court of Appeal of the division*, and offered to make the required *oath or* declaration, and give the security prescribed in Clause First, and that the *Provincial* Court nevertheless omitted or refused to receive the charge, and shall moreover make the required *oath or* declaration, and enter into the security prescribed in the above-mentioned clause. The Sudder Adawlut is likewise empowered to receive charges of corruption or extortion which may be preferred against a ministerial officer of a *Zillah* Court that may have been preferred in the first instance to the *Provincial* Court, in any appeal or matter depending before it, or which may have been decided by it, and to refer it to such *Provincial* Court, or to the *Zillah* Court to which the accused may be attached; provided the com-

plainant shall prove to the satisfaction of the court, that he preferred the charge to the *Provincial* Court, and offered to make the required *oath or* declaration, and give the security prescribed in Clause First, and shall moreover make the required *oath or* declaration, and enter into the security prescribed in the above-mentioned clause. But if any person shall charge a ministerial officer of any *Zillah* Court before the Sudder Adawlut with corruption or extortion, in any suit or matter that may be depending before it, or which may have been decided by it, the court may receive the charge and refer it for trial to the *Zillah* Court to which the offender may be attached, without further inquiry, provided the complainant shall previously make the prescribed *oath or* declaration to the truth of the charge, and give the security required in Clause First.

Court how to proceed if the charge relate to any matter depending before it or which may have been decided by it.

Fourth. The *Provincial Courts of Appeal* are empowered to receive any charge of corruption not relating to any suit or matter depending before them, or decided by them, that may be preferred to them against any of the ministerial officers of the *Zillah* Courts within their respective jurisdictions, and to refer the charge to the court to which the accused may be attached; provided it be proved to their satisfaction that the accuser preferred the charge in the first instance to such *Zillah* Court, and offered to make the *oath or* declaration, and give the security required in Clause First; and that the court, nothwithstanding, omitted or refused to receive the charge. But if any person shall charge a ministerial officer of any *Zillah* Court with corruption or extortion in any appeal or matter which may be depending, or has been decided, in the *Provincial* Court, such court may receive the charge and refer it to the *Zillah* Court to which the accused may be attached, without further inquiry, provided the complainant shall previously make the prescribed *oath or* declaration, and give the security required in Clause First.

Cases in which the *Provincial Courts of Appeal* are empowered to receive charges against the ministerial officers of the *Zillah* Courts.

Fifth. If the Foujdarry Adawlut shall receive a charge of corruption or extortion against any ministerial officer of a *Court of Circuit;* or, if the Sudder Adawlut shall receive any such charge against a ministerial officer of a *Provincial Court of Appeal, or a Zillah Court,* and there shall appear to those superior courts respectively, upon a consideration of the circumstances of the case, any objections to referring the charge to the court to which the accused may be attached; they are empowered, according as they may judge expedient, either to cause the charge to be tried by the Sudder Adawlut, or if the charge be against any ministerial officer of a *Zillah* Court, to cause it to be tried by the *Provincial Court of Appeal of the division in which such court may be situated.*

Sudder Adawlut and Foujdarry Adawlut how to proceed in respect to a charge not proper to be referred to the court to which the accused is attached.

Sixth. If a *Provincial Court of Appeal* shall receive a charge of corruption or extortion against any ministerial officer of a *Zillah* Court, and there shall appear to the court, upon a consideration of the circumstances of the case, any objections to referring the charge to the court to which the accused may be attached; they are to report the grounds of their objections to the Sudder Adawlut, which court are empowered to cause the charge to be tried by such *Provincial* or *Zillah* Court, according as they may deem expedient.

Provincial Courts how to proceed in respect to a charge not proper to be referred to the court to which the accused is attached

Seventh. Charges of corruption or extortion, that may be preferred against the ministerial officers of any Civil or Criminal Court of Judicature under this section, are to be considered as civil actions, and accordingly,

Charges of corruption or extortion are to be considered as civil actions.

are to be prosecuted in the civil courts. Conformably to this rule, whenever the Sudder Adawlut, or the Foujdarry Adawlut, may receive any such charge against their own officers, or exercise the powers vested in them by Clause Fifth, they are to direct the complainant to prosecute the charge in the Sudder Adawlut, and whenever the *Provincial Courts of Appeal* or the *Courts of Circuit* may receive any such charge against any of their own ministerial officers, or the ministerial officers of any *Zillah* Court; or in the event of any such charge being referred to them, they are to direct the complainant to prosecute the charge before the *Provincial Court of Appeal;* and whenever any *Zillah* Court may receive any such charge against their ministerial officers, or any such charge may be referred to them by the Sudder Adawlut, or the *Provincial Court of Appeal,* they are to direct the complainant to prosecute the charge in the *Court of Adawlut of the zillah.*

How to be proceeded on in this respect.

Judgment to be passed by the courts in the event of a charge of corruption or extortion being proved against any native ministerial officer.

Eighth. If a native ministerial officer of any Civil or Criminal Court, who may be prosecuted for corruption or extortion under this section, shall be proved to have received, or taken, the whole, or any part of the money or property which he may be charged with having received or taken, the court is to adjudge him to refund the amount or value of the money or property which he may be proved to have so received or taken, and to pay a fine of three times the amount of it to Government. In enforcing the decision, the court is to observe the rules prescribed for enforcing other decisions of the court. [*If the officer against whom such decree may be passed shall not appeal from it within the limited time; or, if an appeal shall not lie from the decision, the court is to transmit a copy of the decree to the Governor in Council. If an appeal shall lie from the decision, and such officer shall prefer an appeal, and the decision shall be confirmed in appeal, the court by which the final decision may be passed is to transmit a copy of it to the Governor in Council, who reserves to himself the power of declaring such officer incapable of serving Government in any capacity.*] The court may suspend a native officer, against whom a charge of corruption or extortion may be preferred, until the final decision may be passed, if they shall see cause for so doing.

Superseded by Reg. VII., 1822.

Ninth, Tenth, and Eleventh. [Judgment to be passed on a charge of corruption against a covenanted servant, and procedure thereon.]—*Superseded by Act XIII.*, 1843. *See Note at Clause* 1 *of this Section.*

Officers at liberty to prosecute persons preferring groundless charges.

Twelfth. If any person shall prefer a charge of corruption or extortion against a ministerial officer of any Civil or Criminal Court of Judicature, under this section, and the charge shall not be proved, the accused is to have the option of suing the accuser for damages in any court of civil judicature to which he may be amenable.

XIII. [Provincial and Zillah Courts to report to Sudder and Foujdarry Adawlut any neglect or misconduct of their registers.]—*Superseded, the Provincial Courts having been abolished, and the office of Zillah Register having ceased to exist. See Note to Section III. of this Regulation.*

Punishment for persons not attached to the courts convicted of corruption or extortion.

XIV. If a native servant, or dependant of any judge, of a civil or criminal court of judicature, not being a public officer attached to the court, shall extort, or receive, directly or indirectly, any money, or other valuable consideration, under any pretence whatever, from any party or

person, on account of any suit to be instituted, or that may be depending, or has been decided in the court, he shall be committed as for a contempt of court, and be punished by a fine equal to treble the sum of money extorted or received; or by imprisonment, or corporal punishment, at the discretion of the court: and the judge is required to discharge such servant or dependant, and never to employ him, directly or indirectly, in his public or private capacity. If the offender shall not appeal against the decree within the limited time, or if an appeal shall not lie from the decision, or if the decision shall be confirmed in appeal, the court by which the final decree may be passed shall transmit a copy of it to the Governor in Council; and the offender, in addition to the penalties or punishments specified in the decree, shall be further liable to be declared by the Governor in Council incapable of serving Government in any capacity whatever.

XV. [Duty of the zillah register on a vacancy in the office of zillah judge and magistrate by casualty.]—*Superseded. See Note to Section III. of this Regulation. See also Section XXIII., Regulation II.*, 1802.

Limitation of the powers of register or assistant

XVI. The registers *to the Civil or Criminal Courts of Judicature are* not to exercise any judicial or other powers, in any case or matter coming within the cognizance of the courts, excepting the powers which they may be authorized to exercise by the regulations in that respect established.

XVII., XVIII. [Assistants to magistrates, in what cases may be appointed to act judicially.]—*Rescinded by Section II., Regulation IX.*, 1816.

XIX., XX. [Appeals from native commissioners may be referred to registers, rules of process and pleading.]—*Superseded, the office of Zillah Register having ceased to exist.*

A.D. 1802. REGULATION XIII.

[FRAMED UPON REGULATION XVIII., 1793, OF THE BENGAL CODE.]

A REGULATION *for preserving complete the records of the Civil and Criminal Courts of Judicature, and for requiring the Zillah Courts to transmit monthly reports of the suits decided by them to the Provincial Courts of Appeal; and for requiring the Provincial Courts of Appeal to submit monthly reports of the appeals and causes decided by them to the Sudder Adawlut; and for enabling the Sudder Adawlut to judge of the progress made by the Zillah and Provincial Courts in the determination of causes:* PASSED *by the Governor in Council of Fort St. George, on the* 1*st of January*, 1802.

To obviate injuries arising to public or private rights or property, by the loss, destruction, or removal of the records of the Courts of Judicature; and with a view to facilitate reference to them; and that the Provincial Courts of Appeal may have in their possession a record of the number and nature of the causes filed and decided in the Zillah Courts, and the time they may have been depending, and the substance of the decision respecting them; and that the Sudder Adawlut may possess similar information with regard to suits filed both in the Zillah Courts and the Provincial Courts of Appeal; and that the Honourable Court of Directors may be apprized of the decisions of the Sudder Adawlut, the following rules have been enacted:—

Two native keepers of the records to be appointed

II. Two native keepers of the records shall be appointed to keep the Adawlut and Foujdarry records in each *Zillah*, and in each of the *Provincial Courts of Appeal and Courts of Circuit*, and in the Sudder Adawlut and the Foujdarry Adawlut.

III. [Keepers of the records, by whom removeable.]—*Rescinded by Section II., Regulation VII.*, 1822.

To keep a list of the records

IV. The keepers of the records are to keep a register [*in the Persian, and*] in the language of the district in which the court may be situated, of all the proceedings, documents, and other records belonging to the courts to which they may respectively be attached, in a book, each leaf of which shall be attested by the official signature of the register, and assistant to the *judges and magistrates of the zillahs, and the registers to the Provincial Courts of Appeal and Courts of Circuit, and the* Sudder Adawlut, and the Foujdarry Adawlut, and on the last leaf of which they shall specify in their own handwriting the number of pages contained in the book.

Rescinded by Sec. xv., Reg. XV., 1816.

Papers how to be entered

V. The keepers of the records are to indorse upon the back of every paper or document which they may enter in the register, the number of

the page in which it may be registered; and the indorsement is to be attested with the official signature of both or either of them.

VI. It shall be the duty of the keepers of the records to see that the records of the court are not destroyed by insects, damp, or otherwise, and that they are not removed without the orders of the court.

Keepers of the records to be careful that papers are not destroyed

VII. If any records entered in the register shall be destroyed, in consequence of the neglect, or any omission of the keepers of the records; or if any such records shall not be forthcoming, and they shall not be able to give a satisfactory account of them, they shall be liable to dismission from their offices.

To be liable to dismission for neglect

VIII. The keepers of the records are to be careful to attend to any rules or orders respecting the duties of their office, that may be prescribed to them by any established regulation, and also to any directions that may be given to them by the court to which they may be attached [*or the register thereof*], for the better keeping, preserving, or registering the records.

What rules they are to be subject to

IX. The Courts of Adawlut established in the several zillahs are to keep a book in which the daily proceedings in each cause, and every order or act of the court, are to be minuted in the [*Persian or*] language of the district in which the court may be held, and attested with the signature of the judge. The plaint, answer, reply, and rejoinder of the parties, and every deposition, exhibit, and paper whatever, read and filed in each cause, is to be minuted and referred to in this book, by marks or numbers corresponding to marks or numbers to be indorsed on each document when it may be read in the cause.

Book of daily proceedings to be kept in each *Zillah* Court.

X., XI. [What registers to be kept by Zillah Courts, and what to be sent to Provincial Court and Sudder Adawlut.]—*Rescinded by Section II., Regulation IX.*, 1828.

XII. The *Provincial Courts of Appeal* are to keep a book of daily proceedings, similar to that which the judges of the *Zillah* Courts are required to keep in Section IX., *with this difference, that the entries in the book are to be attested by the register, instead of the judges of the court.*

Provincial Courts of Appeal to keep a book of daily proceedings.

XIII., XIV.—[What abstract registers to be kept by Provincial Courts, and what to be transmitted to Sudder Adawlut.]—*Rescinded by Section II., Regulation IX.*, 1828.

XV. The Sudder Adawlut is to keep a book of daily proceedings and a separate record of the appeals or causes which may be decided by them, in the same manner as is prescribed to the *Provincial Courts of Appeal* in Section XII.

Sudder Adawlut to keep a daily book and separate records of causes

XVI. to XXIII. [Rules for the preparation of sundry reports to be submitted to the Sudder Adawlut and the Governor in Council.]—*Rescinded by Section II., Regulation IX.*, 1828.

A.D 1802. REGULATION XIV.

A REGULATION *for admitting persons of certain descriptions to sue in the Courts of Civil Judicature as Paupers :* PASSED *by the Governor in Council of Fort St. George, on the* 1*st of January,* 1802.

[Rescinded by Section II., Regulation VII., 1818.]

A.D. 1802. REGULATION XV.

A REGULATION *for providing for differences of opinion between the Judges of the Provincial Courts of Appeal and Courts of Circuit, and prescribing rules regarding other matters connected with their official situations :* PASSED *by the Governor in Council of Fort St. George, on the* 1*st of January,* 1802.

[Superseded by the abolition of Provincial Courts under the provisions of Act VII., 1843.]

A.D. 1802. REGULATION XVI.

A REGULATION *for granting Commissions to Natives to hear and decide Civil Suits for sums of money or personal property of a value not exceeding Eighty Arcot Rupees, and prescribing Rules for the Trial of the Suits, and enforcing the decision which may be passed upon them :* PASSED *by the Governor in Council of Fort St. George, on the* 1*st of January,* 1802.

[Rescinded by Section II., Regulation VI., 1816.]

A.D. 1802. REGULATION XVII.

[FRAMED UPON REGULATION XXXVI., 1793, OF THE BENGAL CODE.]

A REGULATION *for establishing a Registry for Wills and Deeds for the transfer or mortgage of Real Property:* PASSED *by the Governor in Council of Fort St. George, on the* 1*st of January*, 1802.

To give security to the titles and rights of persons purchasing real property, or receiving such property in gift, or advancing money on the mortgage of it, or taking it on lease, or other limited assignment; to prevent individuals being defrauded by buying or receiving in gift, or lending money on mortgage, or taking on lease any such property that may have been so previously disposed of or pledged; to afford persons the means of obviating, as far as may be practicable, litigation respecting the authenticity of their wills, or any written authority they may grant to their wives to adopt sons after their death; and that individuals may be able to provide against any injury to their rights or property by the loss or destruction of deeds relating to transactions of the nature of those above specified, the following rules have been enacted.

An office for the registry of deeds to be established in each zillah.

To be superintended by the register of the zillah.

II. An office for the registry of deeds shall be established in each zillah. The superintendence of the office shall be committed to *the register of the Court of Adawlut,** who shall take and subscribe the following oath before the judge of the zillah, previous to his entering on the execution of the duties of the office:—

See Act XXI., 1837.

Oath.

"I, A. B., solemnly swear, that I will truly and faithfully execute the office of register of deeds for the zillah of , and that I will not, directly nor indirectly, derive any pecuniary or other benefit whatsoever from the said office, excepting such as is or may be allowed to me by the established regulations.

"SO HELP ME GOD."

Memorials of the following deeds to be registered.

Deeds of sale and gift of real property.

Mortgages and incumbrances, and certificates of the discharge of them.

III. *First.* The register is authorized and required to register memorials of the following deeds:—

Second. Deeds of sale, or gift of lands, houses, and other real property.

Third. Deeds of mortgage on land, houses, and other real property, as well as certificates of the discharge of such incumbrances.

* The office of Register to the Zillah Court having ceased to exist, recourse must be had to the rules of Regulation XI., 1831, which provide for the employment of Zillah and Subordinate Judges and the Principal Sudder Ameens to perform the duties here prescribed; the word Register must, therefore, be understood to apply to the person officiating in the Registry of Deeds.

Limited assignments and temporary transfers.

Fourth. Leases and limited assignments of land, houses, and other real property, including generally all conveyances used for the temporary transfer of real property.

Wills.

Fifth. Wusseatnamahs or wills.

Authorities to women to adopt sons after the death of their husbands.

Sixth. Written authorities from husbands to their wives to adopt sons after their (the husbands') demise.

Option left of registering deeds antecedent to the operation of this regulation.

IV. It shall be left to the option of all persons to register or not, as they may think proper, any of the descriptions of deeds specified in the preceding section, that have been executed, or which may be executed, prior to the period fixed for the operation of this regulation. The not registering such deeds shall in nowise operate to the prejudice of the rights of the parties thereto, which shall remain the same as if this regulation had never been enacted.

Deeds described in the three last clauses of Sec. iii., whether executed before or after the period herein specified, may be registered or not, at the option of the parties.

V. It shall also be left to the option of all persons to register or not, as they may think proper, the several description of deeds specified in Clauses Fourth, Fifth, and Sixth, of Section III., whether executed previous or subsequent to the period fixed for the operation of this regulation. The not registering of the deeds specified in those three clauses shall in nowise operate to the prejudice of the rights of the parties thereto, which shall remain the same as if this regulation had never been enacted.

See Acts I. and XIX., 1843.

Deeds of sale or gift executed subsequent to the operation of this regulation.

VI. *First.* Every deed of sale or gift of the description specified in Clause Second, Section III., that may be executed on or after the period fixed for the operation of this regulation, and a memorial of which shall be duly registered according to this regulation, shall, provided its authenticity be established to the satisfaction of the court, invalidate any other deed of sale or gift for the same property, executed subsequent to the said date, which may not have been registered, and whether such second or other deed shall have been executed prior or subsequent to the registered deed.

Clauses 1 and 2 are re-enacted in Sec ii., Act XIX., 1843.

Deeds of mortgage executed subsequent to the operation of this regulation, duly registered, to be discharged in preference to mortgages granted subsequent to that date not registered.

Second. Every deed of mortgage of the description specified in Clause Third, Section III., that may be executed on or after the period fixed for the operation of this regulation, and a memorial of which shall be duly registered according to this regulation, and provided its authenticity be established to the satisfaction of the court, shall be satisfied in preference to any other mortgage on the same property, executed subsequent to the said date, which may not have been registered, and whether such second or other mortgage shall have been executed prior or subsequent to the registered mortgage.

Qualification of the rules in the two preceding clauses applicable to cases in which persons may purchase, take on gift, or mortgage property, knowing it to have been previously sold, given, or mortgaged, subsequent to the operation of this regulation

Third. [*It being the object, however, of the rules in the two preceding clauses, to prevent persons being defrauded by purchasing or receiving in gift, or taking in mortgage, real property which may have been before sold, given, or mortgaged, subsequent to the period fixed for the operation of this regulation; and as persons can never suffer such imposition when they are apprized of the previous transfer or mortgage of the property, it is to be understood, that if any person shall purchase, receive in gift, or take in mortgage any real property, knowing such property to have been previously sold, given, or mortgaged to any other person subsequent to the above period; and that the deed of sale, gift, or mortgage has not been registered, and shall*

Repealed by Act I., 1843, as regards deeds executed on or after 1st May, 1843. See also Sec. ii., Act XIX., 1843.

register his own deed, in such case the deed of sale, gift, or mortgage of such subsequent purchaser, donee, or mortgagee, which may have been registered, shall not from the registry of it, invalidate or be discharged in preference to the unregistered deed of sale, gift, or mortgage first executed, provided the authenticity of the latter be established to the satisfaction of the court.]

VII. The registry of all deeds shall be made in the register office of the zillah in which the property affected by them may be situated; and if the property be situated in the jurisdictions of two or more of the Courts of Adawlut, the deeds affecting it shall be registered in the office of each jurisdiction.

In what office deeds are to be registered.

Provision for cases in which the property may be situated in two or more jurisdictions

VIII. *First.* Each species of deed shall be registered in a separate book, each leaf of which shall be paged, and be attested by the judge of the *Adawlut of the zillah*, who shall note in his own handwriting on the last page of each book, the number of pages contained in each book, and attest the note with his official signature. No register shall be deemed authentic excepting such as shall be so paged and attested.

Each description of deeds to be registered in a separate book, paged and attested as herein directed.

Second. Every deed entered in a register book shall be numbered, and the date of the month and the year, as well as the time of the day when every deed may be registered, shall be noted in the margin of the register books which shall be deposited amongst the records of the Courts of Adawlut.

Deeds how to be entered

IX. *First.* The following forms shall be observed in the registry of deeds.

Forms to be observed in the registry of deeds

Second. The person or persons executing the deed, or his or their authorized representative, with one or more of the witnesses to the execution of it, shall attend at the register office, and prove by *oath* before the register, the due execution of the deed; upon which the register shall cause an exact copy of the deed to be entered in the proper register book; and, after having caused it to be carefully compared with the original, shall attest the copy with his signature, and shall also cause the parties or their authorized representatives in attendance, to subscribe their signatures to the copy in the presence of two creditable witnesses (whose names shall also be subscribed thereto), and shall then return the original, with a certificate under his signature indorsed thereon, specifying the date and the time of day on which such deed shall have been so registered, with references to the book containing the registry thereof, and the page and number under which the same shall have been entered therein.

Forms

X. The certificate of the register, indorsed agreeably to the forms described in Clause Second of the preceding section, shall be considered in all courts of justice to be sufficient evidence of the registry.

Certificates of the registry of deeds to be considered as evidence of their registry

XI. The register shall, on application being made to him, allow all persons to inspect the register books, as well as grant copies of all deeds registered by him to persons whom they may concern; and such copies, in the event of the originals being lost, destroyed, or not forthcoming, shall be received as sufficient evidence of such deeds in all courts of

Register to allow all persons to inspect the register books.

To grant copies of deeds.

Copies of registered deeds lost or not forth-

coming, to be considered by the courts of judicature as evidence of the originals

justice whatever, proof being made by the subscribing witnesses to the original deed, that the original was duly executed.

Persons counterfeiting or falsifying entries in the register books or certificates, to be prosecuted criminally

XII. If any person or persons shall at any time be suspected, on sufficient grounds for commitment, of counterfeiting or falsifying any entry in any of the register books ordered to be kept, or any certificate such as is directed to be granted by this regulation, he or they shall be prosecuted on the part of the Government, in the Criminal Court of Judicature, and the several registers shall, as agents for the prosecution, adopt every legal measure in their power for the proof of the crime, and the due execution of the laws against the offender.

Hours for the registry of deeds

XIII. Every register shall attend at his office for the despatch of all business belonging thereto, during certain specified hours each day, between sunrise and sunset (Sundays and holidays excepted), and after determining the particular hours of such attendance, he shall affix a written notice thereof in some conspicuous part of his office for general information.

Fee to be allowed to the register for registering deeds, furnishing copies, and making searches

XIV. The register *shall be allowed* a fee of two rupees for every deed registered by him, to be paid by the party causing the same to be registered, and no more; a fee of one rupee for every copy furnished of a deed registered by him, to be paid by the party applying for such copy, and no more; and a fee of half a rupee for every search made on an inspection of the register, to be paid by the party inspecting the same, and no more. The register is authorized to refuse the official acts required from him until the fees be paid, and from such fees he shall provide the necessary native officers to make the entries and copies directed, as well as the requisite stationery.

See Sec. vi, Reg XI, 1831

Register may refuse to perform the official acts required of him until the fee be paid

To defray the expenses of the office from the fees

Registers may appoint deputies to officiate for them in the cases and under the rules herein specified

XV. The several registers are permitted, in case of absence from their stations, sickness, or any other disqualification from personal attendance to the duties of their office, to appoint (*with the approbation of the judge to whom they may be registers respectively*) a deputy, *being a covenanted servant of the Company*, and duly qualified, to act for them; and such deputy so appointed and approved, after taking a similar oath to that prescribed for the register, shall be authorized to perform the several acts which the register is hereby empowered to perform. This permission, however, is to be expressly confined to the cases stated, and the registers when present at their stations, are not to be allowed to employ any deputy, but are to be required to discharge personally the duties of the office committed to them.

See Reg XI, 1831

See Act XXI, 1837

Regulation when to be in force.

XVI. The operation of this regulation shall not commence until the period of three years shall have elapsed from the date of its being passed; and the judges of the several zillahs are to transmit a copy of the Persian translate of it to every cauzy in their jurisdiction.

A.D. 1802. REGULATION XVIII.

A REGULATION *for prohibiting British Subjects (excepting King's Officers serving under the Presidency of Fort St. George, and the Civil Covenanted Servants of the Company, and their Military Officers) from residing at a greater distance from Fort St. George than ten miles; unless they render themselves amenable to the Courts of Adawlut in civil suits, which may be instituted against them by any of the descriptions of persons mentioned in Section IV., Regulation II.,* 1802; *and for enabling British subjects to recover any demands, recoverable under the Regulations, which they may have upon such persons:* PASSED *by the Governor in Council of Fort St. George, on the* 1*st of January,* 1802.

[Superseded by Act XI., 1836.]

A.D. 1802. REGULATION XIX.

[FRAMED UPON REGULATION XXXVIII., 1793, OF THE BENGAL CODE.]

A REGULATION *for prohibiting Covenanted Civil Servants of the Company employed in the administration of justice, or the collection of the public revenue, lending money to Zemindars, independent Talookdars, or other actual Proprietors of land; or dependent Talookdars, or Farmers of land, holding farms immediately of Government; or the Under-farmers or Ryots of the several descriptions of proprietors and farmers of land above mentioned, or their respective sureties; and for prohibiting Europeans of any description holding possession of lands that may be mortgaged to them, or purchasing or renting lands for erecting houses, or buildings, for carrying on manufactures or other purposes, out of the limits of the town of Madras, and the jurisdiction of the Supreme Court of Judicature at Madras, without the sanction of Government:* PASSED *by the Governor in Council of Fort St. George, on the* 1*st of January,* 1802.

FROM a regard to the prejudices of the natives, and with a view to promote their ease and happiness, and to obviate the evils that would necessarily result from allowing any persons not amenable to the Provincial Courts of Judicature, in common with the natives, to purchase or

rent estates, without restriction or limitation, or to hold any land whatever excepting for the erection of dwelling-houses, or buildings for manufactures, or other commercial purposes, the Governor in Council has been pleased to enact the following regulations :—

Covenanted servants of the Company employed in the administration of justice or the collection of the revenue prohibited lending money to proprietors or farmers of land dependent talookdars, under-farmers or ryots, or their sureties

II. The judges and magistrates of the *Zillah* Courts, the judges of the *Provincial Courts of Appeal*, and the *Courts of Circuit* [*and the registers to their respective courts and their assistants*], or other officers, being covenanted servants of the Company; and the collectors of the revenue and their assistants, are prohibited lending money, directly or indirectly, to any proprietor or farmer of land, dependent talookdar, or under-farmer, or ryot, or their sureties; and all such loans as have been made in opposition to the repeated prohibitions of Government, or which may be hereafter made, are declared not recoverable in any court of judicature.

III. to VI. [Europeans not to hold lands out of the jurisdiction of the Supreme Court without sanction of Government.]—*Superseded by Act IV.*, 1837

A.D. 1802. REGULATION XX.

A REGULATION *for the Trial of Persons charged with Crimes against the State :* PASSED *by the Governor in Council of Fort St. George, on the* 1*st of January*, 1802.

[THE provisions of this Regulation have been re-enacted, with some necessary modifications, "with a view to uniformity at the different Presidencies," by Act V., 1841.]

A.D. 1802. REGULATION XXI.

[FRAMED UPON REGULATION XVI., 1793, OF THE BENGAL CODE.]

A REGULATION * *for referring Suits to Arbitration :* PASSED *by the Governor in Council of Fort St. George, on the* 1*st of January,* 1802.

THE Governor in Council being desirous to promote the reference of disputes of certain descriptions to arbitration, and to encourage people of credit and character to act as arbitrators, the following rules have been enacted :—

What suits exceeding two hundred rupees the courts are to recommend to the parties to refer to arbitration.

II. In suits that may be brought before any of the Courts of Civil Judicature concerning disputed accounts, partnerships, debts, doubtful or contested bargains, or non-performance of contracts, in which the cause of action shall exceed two hundred *Arcot* rupees, the courts are to recommend the parties to submit the decision of the matters in dispute to arbitration.

Cases in which the courts are empowered to nominate one person to arbitrate with the consent of the parties.

III. In all suits for money or personal property, the amount or value of which shall not exceed the sum of two hundred *Arcot* rupees, the courts are empowered, with the consent of the parties, to refer the suit to the decision of one arbitrator. The parties, or their vakeels, upon agreeing to the reference, shall, on or before the next court day, mutually choose some one common friend or indifferent person who may be willing to undertake the arbitration. If the parties shall not agree with respect to the person to be appointed arbitrator; or if the person nominated by them shall refuse to accept the arbitration, and the parties, or their vakeels, cannot agree in the appointment of another person willing to undertake the arbitration; the court, with the consent of the parties, is to appoint as arbitrator in the cause, the proprietor of the estate in which the cause of action shall have arisen, or the farmer, if the estate be held in farm of Government, or the cauzy of the pergunnah, or the tehseeldar, or any other creditable person, provided that the person so to be nominated by the court be not in any respect interested in the matter in dispute. But if the parties cannot agree in the nomination of an arbitrator; or if the person whom they may nominate shall refuse to accept the trust, and the parties cannot agree upon the appointment of any other person willing to undertake the arbitration, or shall not consent to the appointment of an arbitrator by the court, the cause is not to be referred to arbitration, but is to be tried by the court [*or the register, if the cause be depending in*

* See the rules for referring suits, without limitation as to amount or value, to be tried by Village and District Punchayets in Regulations V. and VII., 1816, which would supersede this regulation in respect of suits in the courts of the Village and District Moonsifs Courts.

a Zillah Court, and the judge shall think it proper to refer it to him for decision]. In the event of the parties, or their vakeels, agreeing in the nomination of an arbitrator, willing to accept the arbitration, or to an arbitrator being appointed by the court, the person so chosen or appointed shall be the arbitrator in the cause. The parties, however, in suits of the nature of those described in this section, are to have the option of choosing two or more arbitrators to decide their cause in the same manner as the parties in the causes specified in Section II.

Parties to have the option of referring their causes to the decision of two or more arbitrators

Courts to encourage but not oblige persons to become arbitrators

IV. The judges of the courts are enjoined to afford every encouragement in their power to persons of character and credit to become arbitrators; but they are not to employ any coercive means for that purpose, nor to permit any of their public officers, or private servants, or any of the authorized vakeels, to be arbitrators in a cause. In all cases, the courts are directed to endeavour, but without using any compulsion, to prevail upon parties to submit their cause to the arbitration of one person, to be mutually agreed upon by them. In every case (with the exception of the cases specified in Section III., which the courts are empowered to refer to one arbitrator with the consent of the parties), the parties are to choose the arbitrators, who are to decide the matter in dispute without fee or reward.

Court how to proceed upon the parties agreeing to refer a cause to arbitration

V. Whenever a suit shall be submitted to arbitration, the court in which it may have been instituted, previous to the arbitrator or arbitrators entering on the arbitration, is to cause the parties to execute arbitration bonds, binding themselves to abide by the award, and agreeing that it be made a decree of the court. The court is to fix such time as it may think reasonable, upon a consideration of the nature and circumstances of the case, for the delivery of the award, and the period so fixed is to be specified in the bonds. If the cause shall be referred to two or more arbitrators, the following provisions are to be made for completing the award, in the event of the arbitrators not delivering it by the limited time, either from disagreement or other cause. If the decision of the suit shall be referred to two or more arbitrators, whether an odd or an even number, the parties are to have the option of nominating jointly one person as umpire; or if the number of arbitrators appointed shall be three or more, being an odd number, to agree that the award given by the majority shall be final, or to permit the arbitrators to nominate an umpire. The name of the umpire, and the time by which he is to make his award, in the event of the arbitrators not delivering it by the limited period, is to be specified in the bonds, which are to be executed before the arbitrators enter upon the inquiry. In the event of an umpire being appointed, and the arbitrators not agreeing in an award by the limited period, their authority is to cease from such period, and the umpire is to give his award.

Provisions to be made against the arbitrators not delivering in their award by the limited time

Courts how to proceed when the arbitration bonds have been executed

VI. When a cause shall be referred to arbitration, and the bonds specified in the preceding section shall have been executed, the court is to transmit to the arbitrator or arbitrators a copy of the bill of complaint, and by a short writing, under the seal of the court, refer to him or them the matters in dispute between the parties. In the trial of the suit, the

arbitrators are to investigate the matters in dispute, by hearing the pleadings of the parties and examining their respective witnesses and documents. The court is to issue the same process to the parties and to the witnesses whom the arbitrator or arbitrators, or the parties, may desire to have examined, to appear before the arbitrator or arbitrators; and to administer such *oaths* to the parties and witnesses as the court is authorized to administer in causes tried before it; and persons not attending in consequence of such process, or making any default, or refusing to give their testimony, or to sign their depositions, or being guilty of any contempt to the arbitrator or arbitrators during the investigation of the suit, are to be subject to the like disadvantages, penalties, and punishments, by order made by the arbitrator or arbitrators, as they would incur for the same offences in suits tried before the court; provided that the arbitrator or arbitrators shall report the order, with the reason for making it, to the court, and obtain its consent thereto, which is to be signed by the judge or judges signing the order. In cases in which an arbitration may be held at a considerable distance from the court, the court may grant commissions to the arbitrators to administer the proper *oaths* to witnesses, whom they may be desirous of examining upon *oath*.

Cases in which the courts may extend the period for the delivery of an award.

VII. In cases where arbitrators, or umpires, shall not have been able to complete the award by the limited time, from want of the necessary evidence or information, or other good and sufficient cause, the courts are empowered to allow a further time for the delivery of the award. In the first-mentioned case, the courts are to fix a period by which the umpire (if an umpire shall have been appointed) shall deliver his final award, in the event of the arbitrators not completing their award by the expiration of such further time.

Arbitrators to deliver all documents and papers into the courts.

Award to become a decree of the court.

VIII. When a final award in a cause shall be made, either by the arbitrators, or the umpire, it is to be submitted to the court, under the seal and signature of the person or persons by whom it may be made, together with all the proceedings, depositions, and exhibits in the cause. The court is to pass a decree conformably to the award, and the decree is to be carried into execution in the same manner as other decrees of the court.

Awards not to be set aside but upon proof of corruption or partiality.

IX. The award of an arbitrator or arbitrators is not to be set aside, except it be fully proved, to the satisfaction of the court, by the *oaths* of two credible witnesses, that the arbitrator or arbitrators has or have been guilty of gross corruption or partiality in the cause in which the award may be made.

A.D. 1802. REGULATION XXII.

[FRAMED UPON REGULATION X., 1796, OF THE BENGAL CODE.]

A REGULATION *for the guidance of the Courts of Justice, in cases of a Difference of Opinion on the Meaning and Construction of the Regulations:* PASSED *by the Governor in Council of Fort St. George, on the 1st of January,* 1802.

WHEREAS doubts may arise as to the duty of the zillah judges and magistrates, in cases wherein they may construe the general rules prescribed by Government in a different sense from the construction given thereto by the judges of the Provincial Courts of Appeal and Courts of Circuit; and it being of consequence, to prevent delay in the administration of justice, that a clear rule of conduct should be established to provide for such cases; the Governor in Council has therefore enacted the following rules:—

Zillah judges and magistrates may state objections to precepts of the *Provincial* Courts or *Courts of Circuit*, if considered contrary to or unwarranted by the regulations, and suspend execution till receipt of a second precept.

Second precept to be carried into immediate execution if required.

But the *zillah* judge and magistrate may request a reference of the case to the Foujdarry or Sudder Adawlut.

II. In all instances wherein a precept issued by a *Provincial Court of Appeal*, or a *Court of Circuit*, to a *zillah* judge or magistrate, shall appear to such judge or magistrate to be contrary to, or unwarranted by, the existing regulations, he is authorized to state to the *Provincial* Court, or *Court of Circuit*, in what respect he considers their precept to be in deviation from the regulations, and suspend execution till receipt of a second precept in reply to his objections. But if the second precept of the *Provincial* Court, or *Court of Circuit*, in reply to the objections of the *zillah* judge or magistrate, shall confirm their first precept in whole or in part, and shall require the *zillah* judge or magistrate to execute the same without further reference, he shall immediately comply with such requisition. In case, however, the second precept of the *Provincial* Court, or *Court of Circuit*, should not satisfy the *zillah* judge or magistrate that the regulations have been rightly construed by the *Provincial* Court, or *Court of Circuit*, he is at liberty at the same time that he certifies the execution of the order of the *Provincial* Court, or *Court of Circuit*, to request that they will transmit copies of their precepts to him, and his returns thereto, with such other papers as may be necessary for the information of the circumstances of the case, to the Court of Sudder Adawlut, or the Court of Foujdarry Adawlut, according as the case in question may relate to the civil or criminal department; and the *Provincial* Court, or *Court of Circuit*, shall accordingly transmit such papers as requested, without any unnecessary delay. Provided nevertheless, that nothing in this regulation be understood to authorize any *zillah* judge or magistrate to question the propriety of any order issued by a *Provincial* Court, or *Court of Circuit*, in cases clearly left to the discretion and judgment of the *Provincial* Court, or *Court of Circuit*, by the regulations; the reference to them, and eventually

Proviso.

to the Courts of Sudder Adawlut and Foujdarry Adawlut, meant to be authorized by this regulation, being confined to cases in which the sense of the regulations, from a difference of construction or otherwise, may appear doubtful and uncertain.

Determination of the Foujdarry or Sudder Adawluts to be conclusive.

III. In all instances wherein a reference to the Court of Sudder Adawlut, or Foujdarry Adawlut, may be made under the preceding rule, the determination of those courts, who are empowered to prescribe the forms and conduct to be observed by the *Provincial* and *Zillah Courts of Adawlut*, the *Courts of Circuit*, and the zillah magistrates, in all cases provided for by the regulations, agreeably to their construction thereof, is to be held final and conclusive.

Foujdarry and Sudder Adawluts to report to the Governor in Council any case in which they have doubts on the meaning of the regulations.

IV. Should any doubt occur to the Sudder, or the Foujdarry Adawlut, with respect to the meaning of any part of the regulations; or should it appear to them, on occasion of any reference from the *Provincial* or *Zillah* Courts, the *Courts of Circuit*, or the zillah magistrates, that the regulations do not sufficiently provide for the case submitted to their decision, they are in the former case to report the circumstances of it to the Governor in Council, *that a new regulation may be framed in explanation of such doubt; and in the latter case are to propose a new regulation.*

See Note to Reg. I., 1802.

A.D. 1802. REGULATION XXIII.

[Framed upon Regulation XXI., 1793, of the Bengal Code.]

A Regulation *for establishing in each Zillah an Office for keeping the Records in the native languages which relate to the Public Revenue, and prescribing Rules for the Conduct of the Keepers of the Records:* Passed *by the Governor in Council of Fort St. George, on the* 1*st of January*, 1802.

It being essential to the future security of the dues of Government, and of the rights and property of individuals, that all accounts and papers regarding the assessment, the allotment of the revenue on the shares of estates that may be divided, as well as all other documents in any respect relating to the public demand upon the lands, should be carefully preserved, the following rules have been accordingly enacted:—

Office for keeping revenue records in the native languages established in each zillah.

II. An office shall be established in each zillah for keeping all records and papers in the native languages, which in any respect relate to the public revenue.

Office to be superintended by two natives during their good behaviour

III. The office shall be superintended by two natives, who shall form a part of the establishment of the collector, and shall be styled "keepers of the revenue records in the native languages." [*They shall be appointed by the Governor in Council, and shall not be removable but for misconduct proved to his satisfaction.*] The office, however, is expressly declared not to be hereditary.

Rescinded by Sec. ii., Reg. VII., 1822.

Office not hereditary.

Register to be kept of the accounts and papers in a book, to be paged, and to be attested by the *judge of the zillah*

IV. The keepers of the records are to keep a register in the Persian and in the language of the district in which the court may be held, of all accounts, papers, and documents in any respect relating to the public revenue, in a book or books, which shall be paged, and each leaf of which shall be attested by the judge of the *Court of Adawlut of the zillah*, and who shall insert in his own handwriting on the last leaf of each book he may so attest, the number of pages contained in it. The accounts and papers now deposited in the several zillahs are to be first entered in the registers, and the keepers of the records are to prepare a list of them for that purpose immediately upon the receipt of this regulation.

Existing accounts and records to be first entered

Papers how to be entered.

V. The keepers of the records, or one of them, shall indorse on the back of every paper which may be registered, the number of the page in which it may be registered, and attest the indorsement with his or their official signature.

Keepers of the records to be responsible for their preservation.

VI. The keepers of the records are to be careful that the accounts and other records are not destroyed by insects, damp, or otherwise, and that they are not removed from the office of the collector without his express orders.

To be liable to dismission for neglect.

VII. If any papers or records entered in the register shall be destroyed in consequence of the neglect, or any omission of the keepers of the records, or if any such records or papers shall not be forthcoming, and they shall not be able to give a satisfactory account of them, they shall be liable to dismission from their office.

What rules they are to be subject to

VIII. The keepers of the records are enjoined to attend to all rules or orders respecting the duties of their office which may be prescribed to them by any regulation published by order of Government, and also to any directions respecting the better keeping, preserving, or registering the accounts and other records of the zillah, which may be issued to them by the collector, under whose superintendence they are to perform the duties of their office.

A.D. 1802. REGULATION XXIV.

A REGULATION *for modifying and declaring the Jurisdiction of the Courts of Appeal and Circuit, and Zillah Courts:* PASSED *by the Governor in Council of Fort St. George, on the* 13*th day of July,* 1802.

[Superseded as relates to Provincial Courts by their abolition under the provisions of Act VII., 1843, and as respects Zillah Courts by Regulation I., 1821, and Section LIII., Act.VII., 1843.]

A.D. 1802. REGULATION XXV.

[FRAMED UPON REGULATION I., 1793, OF THE BENGAL CODE.]

A REGULATION* *for declaring the proprietary Right of Lands to be vested in individual persons, and for defining the Rights of such persons, under a permanent Assessment of the Land Revenue in the British territories subject to the Presidency of Fort St. George:* PASSED *by the Governor in Council of Fort St. George, on the* 13*th of July,* 1802.

WHEREAS it is known to the zemindars, merassydars, ryots, and cultivators of land in the territories subject to the Government of Fort St. George, that, from the earliest until the present period of time, the public assessment of the land revenue has never been fixed; but that, according to the practice of Asiatic governments, the assessment of the land revenue has fluctuated without any fixed principles for the determination of the amount, and without any security to the zemindars or other persons for the continuance of a moderate land-tax; that, on the contrary, frequent inquiries have been instituted by the ruling power, whether Hindoo or Mahomedan, for the purpose of augmenting the assessment of the land revenue; that it has been customary to regulate such augmentations by the inquiries and opinions of the local officers appointed by the ruling power for the time being; and that in the attainment of an increased revenue on such foundations, it has been usual for the Government to

* The principles of the permanent settlement have only been partially applied.—See Reg. II., 1806.

It is declared in Reg. IV., 1822, that the provisions of this Regulation were not meant to define, limit, infringe, or destroy the actual rights of any description of landholders or tenants, such rights being determinable by judicial investigation only.

deprive the zemindars, and to appoint persons on its own behalf to the management of the zemindaries, thereby reserving to the ruling power the implied right, and the actual exercise of the proprietary possession of all lands whatever; and whereas it is obvious to the said zemindars, merassydars, ryots, and cultivators of land that such a mode of administration must be injurious to the permanent prosperity of the country by obstructing the progress of agriculture, population, and wealth, and destructive of the comfort of individual persons by diminishing the security of personal freedom and of private property; wherefore, the British Government, impressed with a deep sense of the injuries arising to the state and to its subjects from the operation of such principles, has resolved to remove from its administration so fruitful a source of uncertainty and disquietude, to grant to zemindars and other landholders, their heirs and successors, a permanent property in their land in all time to come, and to fix for ever a moderate assessment of public revenue on such lands, the amount of which shall never be liable to be increased under any circumstances.

An assessment to be fixed on all lands liable to the payment of revenue, and the proprietary right in the soil to be vested in the zemindars and their lawful heirs.

II. In conformity to these principles, an assessment *shall be fixed on all lands* liable to pay revenue to the Government; and in consequence of such assessment, the proprietary right of the soil shall become vested in the zemindars or other proprietors of land, and in their heirs and lawful successors for ever.

Deeds of permanent property specifying the conditions of tenure to be granted to all proprietors of land who are to execute correspondent cabooleats, and in cases of disputed assessment judgment to be grounded on the conditions so specified.

III. Where the conditions of the permanent assessment of the revenue may have been adjusted, a sunnud-i-milkeut istimrar, or deed of permanent property, shall be granted on the part of the British Government to all persons being, or constituted to be, zemindars or proprietors of land; and each zemindar or proprietor of land shall execute and deliver to the collector of the district a correspondent cabooleat. The said sunnuds and cabooleat shall contain the conditions and articles of tenure by which the lands shall be held. In all cases of disputed assessment, reference shall be had to the sunnuds and cabooleats, and judgment shall be given by the Courts of Judicature in conformity to the conditions under which the agreement may have been formed in each particular case.

Articles of revenue which the Government reserves to itself the right of abolishing or continuing. The land-tax to be permanently fixed exclusive of these articles.

IV. The Government having reserved to itself the entire exercise of its discretion in continuing or abolishing, temporarily or permanently, the articles of revenue included, according to the custom and practice of the country, under the several heads of salt and saltpetre—of the sayer, or duties by sea or land—of the abkarry, or tax on the sale of spirituous liquors and intoxicating drugs—of the excise on articles of consumption—of all taxes personal and professional, as well as those derived from markets, fairs, or bazars—of lakhiraj lands (or lands exempt from the payment of public revenue), and of all other lands paying only favourable quit-rents—the permanent assessment of the land-tax shall be made exclusively of the said articles now recited.

The expense of the police establishment to be borne by Government, and all lands or

V. The Government having charged itself generally with the maintenance and support of such establishments as may be requisite in the several provinces, cities, and towns, for the better keeping of the police,

no lands shall be considered, as heretofore, to be holden on the condition of performing police duties, unless the same shall be specially provided for in the sunnud-i-milkeut istimrar: and all lands or russooms heretofore appointed to the support of police establishments shall be disposed of in such manner as the Government may think fit.

russooms heretofore appropriated to this purpose to be resumed.

VI. The landholders shall regularly pay in all seasons, in the current coin of their respective provinces, the amount of the permanent assessment fixed on their lands; the remission of revenue which has occasionally been granted according to the custom of the country on account of drought, inundation, or other calamity of the season, shall cease and never be revived; and where landholders may fail to discharge their pecuniary engagements, their property shall be answerable for the consequence of such failure.

The amount of assessment to be regularly paid.

No remission of revenue ever to be allowed, and the property of landholders answerable for the consequences of failure.

VII. Where such failure may occur, the personal property of landholders shall in the first instance be attached, and ultimately their lands shall be liable to be sold and transferred from them for ever, if necessary, for the payment of the public revenue.*

Their personal property to be attached in the first instance.

VIII. Proprietors of land shall be at free liberty to transfer, without the previous consent of the Government, or of any other authority, to whomever they may think proper, by sale, gift, or otherwise, their proprietary right in the whole, or in any part of their zemindaries; such transfers of land shall be valid, and shall be respected by the Courts of Judicature and by the officers of Government; provided they shall not be repugnant to the Mahomedan or to the Hindoo laws, or to the regulations of the British Government. But unless such sale, gift, or transfer shall have been regularly registered at the office of the collector, and unless the public assessment shall have been previously determined and fixed on such separated portions of land by the collector, such sale, gift, or transfer shall be of no legal force or effect, nor shall such transaction exempt a zemindar from the payment of any part of the public land-tax assessed on the entire zemindary previously to such transfer, but the whole zemindary shall continue to be answerable for the total land-tax, in the same manner as if no such transaction had occurred.

Proprietors of land to be at liberty to transfer the proprietary right in the whole or a part of their zemindaries.

Restrictions under which such transfer is to be made.

IX. Where a part of a zemindary may be sold for the liquidation of arrear of the public assessment, or for the satisfaction of a decree of a Court of Judicature, or where part of a zemindary may be transferred by sale, gift, or otherwise, the zemindar or landholder shall furnish to the collector true and correct accounts of the entire zemindary, and of the portion of the zemindary about to be separated, for a period of time not less than the three years preceding such sale or transfer, in order that the due proportion of the public revenue may be fixed thereon. The assessment to be fixed in this case on the separated lands shall always bear the same proportion to the actual value of the separated portion as the total permanent jummah on the zemindary bears to the actual value of the whole zemindary.

What accounts are necessary to be furnished in forming a part of a zemindary into a separate estate.

Principle on which the assessment on the part to be separated is to be regulated.

* The estates of minors are exempted from sale for arrears of revenue by Cl. 4, Sec. xiv., Reg. V., 1804, and Cl. 1, Sec. ii., Reg. X., 1831.

X. [No separate estate to be created with a less jumma than 500 pagodas.]—*Superseded by Section II., Regulation I.*, 1819.

Regular number of curnums to be kept up to be appointed by the zemindars

Removable only by a sentence of the court

How to be proceeded against in cases of complaint.

Mode to be observed in appointing a successor to a curnum who may be dismissed from office

XI. The zemindars or landholders shall support the regular and established number of curnums in the several villages of their respective zemindaries. The curnums shall be appointed from time to time by the zemindars, and shall obey all legal orders issued by them; but the curnums shall not be liable to be removed from their offices, except by the sentence of a Court of Judicature. Where a zemindar, or his under-farmers, tenants, or ryots, may have cause of complaint against a curnum for breach of his duty, such zemindar shall be free to institute a suit in the Adawlut of the zillah for the purpose of bringing such curnum to trial and punishment; but where a zemindar may deprive a curnum of his office without such previous regular process, the zemindar shall be liable to make such satisfaction for the injury as the Adawlut of the zillah may decree. Where a curnum may be dismissed from his office by the sentence of a Court of Judicature, the zemindar shall in the first instance select a successor from the family of the last incumbent, provided any member of that family be found capable of performing the duty of curnum; but where no member of the family may be capable of discharging the duty of curnum, in that case the zemindar shall exercise his discretion in the appointment of a proper person. The name of the person appointed to succeed to the office of curnum shall be reported to the collector of the zillah by the zemindar.

No part of an estate permanently assessed can be exempted from bearing its portion of the public tax.

Neither can lands allotted to religious be diverted to any other purposes without consent of Government

XII. It shall not be competent to proprietors of land to appropriate any part of a landed estate permanently assessed, to religious or charitable, or to any other purposes by which it may be intended to exempt such lands from bearing their portion of the public tax; nor shall it be competent to a proprietor of land to resume lands, or to fix a new assessment on lands which may be allotted (at the time when such proprietor may become possessed of the estate in which lands are situated) to religious or to charitable purposes under the denominations of Devastan or Devadayum, of Brahmadayum or Agrahāram, of Yeomiah, Jeevadān or Muddud Māsh, of Peerān, Fuckerān, or any other description of exempted lands described under the general term of Lakhiraj, unless the consent of the Government shall have been previously obtained for that purpose.

Where consent is obtained, the assessment on such lands to be paid as fixed by the collector

XIII. Where the consent of the Government may have been obtained to a particular appropriation of the lands above described, the proprietor of the estate in which such lands are situated shall pay such assessment of revenue as may be fixed on the said lands by the collector of the zillah.

Zemindars to enter into engagements with their ryots, to grant pottahs or cowles, and to give receipts for rents

XIV. Zemindars or landholders shall enter into engagements with their ryots for a rent, either in money or in kind, and shall within a reasonable period of time grant to each ryot a pottah or cowle, defining the amount to be paid by him, and explaining every condition of the engagement. And the said zemindars or landholders shall grant regular receipts to the ryots for discharges in money or in kind made by the ryots on account of the zemindars. Where a zemindar after the expiration of a reasonable period of time from the execution of his cabooleat may neg-

lect or refuse to comply with the demand of his under-farmers or ryots for the pottahs or receipts above mentioned, such zemindar shall be liable to be sued in the Adawlut of the zillah, and shall pay such damages as may be decreed by the Adawlut to the complainant.

A zemindar refusing to give such pottahs or receipts, liable to be sued in the court.

XV. Zemindars shall aid and assist the officers of Government in apprehending and securing offenders of all descriptions, and they shall inquire and give notice to the magistrates of robbers or other disturbers of the public peace who may be found, or who may seek refuge in their zemindaries.

Zemindars to assist the magistrates in keeping the peace.

A.D. 1802. REGULATION XXVI.

A REGULATION *for governing the Sale and Subdivision of Malguzary Lands in the British territories subject to the Presidency of Fort St. George:* PASSED *by the Governor in Council of Fort St. George, on the* 13*th of July*, 1802.

WHEREAS it is necessary that the property of landed estates, being malguzary, or paying revenue to Government, should in the event of default be liable to sale for the purpose of making good the public revenue assessed on such lands; and whereas it is expedient that public means should be established for the purpose of ascertaining the public revenue on such lands, as well as for prescribing rules for the transfer of all lands; wherefore the following rules have been passed for that purpose:—

II. The collectors of zillahs shall keep public registers, according to the forms prescribed by the Board of Revenue, for the purpose of registering the landed property paying revenue to Government within their respective zillahs, and shall enter all transfers of land from one proprietor to another, which said registers shall be open at all times to the inspection of persons concerned in seeing them.

Collectors to keep public registers of lands paying revenue to Government and all transfers of lands from one proprietor to another.

III. Transfers of land made by individual persons, without being so registered in the registers of the collectors, shall not be valid in the Courts of Adawlut; and such transfers of land being unregistered, shall not exempt the persons in whose names the entire estates are registered from paying the revenue due to Government from such lands.

Unregistered transfers of land not valid in the courts.

And the proprietor of the entire estate responsible for the revenue thereon.

IV. Where a Court of Judicature may have occasion to resort to the sale of lands paying revenue to Government in satisfaction of a decree, the court by which the decree is to be enforced shall transmit, through

Where lands above described are sold by the decree of a court, copy and translation thereof to be transmitted to the collector.

the *register* of the zillah, a copy of the decree and a translation thereof to the collector of the zillah, in order that such portion of the lands may be sold under the rules established as shall answer the amount of the decree.

The sale of the entire lands or a portion thereof optional with the collector in cases of attachment.

V. Where lands may be attached for arrears of revenue, or in consequence of decrees obtained in the Courts of Adawlut, it shall be competent for the collector, under the authority of the Board of Revenue, to cause the entire lands, or only a portion of the lands, of the defaulting proprietor to be sold.

See Sec. lvii., Reg. I., 1803, and Reg. III., 1830.

Rule for fixing the permanent land-tax on lands divided into different portions.

VI. Where lands may be divided into different portions, the collectors of the zillahs shall fix the amount of the permanent land revenue to be assessed on each division of such lands, and the amount of the permanent revenue so assessed on each division shall bear the same proportion to the actual value of such division as the total amount of the permanent land-tax may bear to the total actual value of the entire lands previously to such division.

Power vested in the collector for the above purpose.

VII. To this end collectors shall have power to demand from proprietors and farmers of land, and from the curnums of villages, accounts of the produce and of the charges attending the management of the lands to be divided; such farmers or proprietors of land and curnums shall furnish the said accounts, when required, for a period of not less than three years next preceding the then current year; where the proprietors or farmers of land may refuse or unreasonably delay to comply with such demand, so as to prevent the assessment being fixed on such divided portions of land, the collectors shall proceed to sell the entire estates, and not otherwise.

If impeded in such duty, to sell the entire estate.

Authority necessary to render valid the assessment on portions of a devised estate.

VIII. The amount of the permanent land revenue to be assessed by the collectors of zillahs on portions of divided estates shall not be valid, until such amount may have been confirmed by the authority of the Board of Revenue at the Presidency signified in writing.

See Sec. iv., Reg. I., 1819.

IX. [No separate estate to be created with a less jumma than 500 star pagodas.]—*Rescinded by Section II., Regulation I.*, 1819.

Expenses of transferring estates to be borne by the proprietor in cases of default.

X. Where estates may be attached for arrears of revenue, or sold in satisfaction of a decree of the Adawlut, the expenses attending the transfer of such property shall be borne by the proprietors of the estates.

The sale of estates to be previously published, and what the publication is to contain.

Where it is to be made, and how long before the day of sale.

XI. Previously to the sale of estates, publication shall be made in the Persian language and in the dialect of the district, specifying the amount of the permanent land-tax assessed on such estates, or on the different divisions of such estates, as the case may be, the proportion of the public revenue due from such estates during the remainder of the current fusly, and the time and place of sale. The publication shall be fixed up in some conspicuous place in the court-room of the Adawlut of the zillah, in the office of the collector, in the principal town of the lands about to be sold, and in the office of the secretary to the Board of Revenue; and the

said publication shall remain so fixed up during a period not less than one month previously to the day of sale.

Conditions for the payment of the purchase-money.

XII. A sum of money, equal to fifteen per cent. of the price of the lands, shall be deposited by the purchaser in the hands of the collector at the time of purchase, and where the remainder of the purchase-money may not be paid according to condition, the money so deposited shall be liable to forfeiture. This clause shall invariably be inserted in the conditions of sale to be published as herein provided.

In failure thereof, the lands to be re-sold.

All losses accruing to be made good by the first purchaser.

If gain arises, the difference to be paid to him on whose account the first sale was made.

XIII. Where the first purchaser may refuse or omit to deposit the said sum of money, or to complete the payment of the remaining purchase-money, the lands shall be re-sold at the expense and hazard of such purchaser; and the amount of all losses or expenses, which may attend such refusal or omission, shall be recoverable from such purchasers in the same manner as arrears of the public revenue. Where the lands may on the second sale sell for a higher price than at the first sale, the difference or increase shall be the property of him on whose account the said first sale was made.

Courts of Adawlut may suspend or countermand such sales of lands.

XIV. It shall be competent for the Adawluts of zillahs, upon sufficient grounds shewn, to suspend or countermand the sale of lands advertised for sale pursuant to a decree of court, by a process to be issued to the collector of the zillah for that purpose.

Forms to be observed by the collectors in putting the purchaser of an estate in possession.

XV. Where lands may be purchased at public sales, the collectors shall put such purchasers in possession of the lands, by publishing at the head cutcheries of the zillahs, at the Adawluts of the zillahs, and in all the towns and villages of the lands purchased, the names of such purchasers, with the dates of purchase, and with a declaration of the lawful succession of such purchasers to all the rights and property of the former possessors in the said lands.

If opposition ensue, what is required of the judge in such case.

XVI. Where, notwithstanding such publication, lawful purchasers of land may be resisted and prevented from obtaining possession of their purchased lands, the *judge of the zillah* shall cause the proper process to be issued, on application, for the purpose of putting such purchasers in possession, in the same manner as if the purchased lands had been decreed to the purchasers by a decision of the court.

Lands purchased at public sale and registered in fictitious names liable to forfeiture.

XVII. Lands purchased at public sale shall be registered in the names of the actual purchasers, and not otherwise; where fictitious names may be substituted for those of the real purchasers, such act, on proof before the Adawlut, shall render the lands liable to forfeiture at the pleasure of the Governor in Council.

Purchase of lands by defaulters of revenue or their sureties to be void and the lands liable to forfeiture.

XVIII. It shall not be competent for defaulting proprietors or farmers of land, or for their sureties, to purchase lands sold at public sale in satisfaction of arrears of revenue due by them; purchases so made shall be void and of no effect whatever; and lands so purchased shall on proof before the Adawlut of the zillah be further liable to forfeiture to Government.

XIX. [Purchase of lands by Europeans or their descendants prohibited.]—*Superseded as respects Europeans by Act IV.*, 1837, *and rescinded as respects their descendants by Section VI., Regulation IV.*, 1832.

Native officers or private servants of collectors not competent to purchase lands sold in their respective zillahs.

XX. It shall not be competent for the native officers of the cutcheries of collectors, nor for the private servants of collectors, to become purchasers of lands sold at public sale in the zillahs in which they may be respectively employed; and purchases so made shall be null and void and liable to forfeiture on proof before the Adawlut. But this section shall not be construed to prevent such native officers from purchasing and holding by private bargain, lands anywhere situated not being liable at the time of purchase to public sale for arrears of revenue then due.

See explanatory declaration in Sec. ii., Reg. VI., 1832.

Disobedience of this rule, how punishable.

XXI. Where native officers or private servants of collectors may purchase lands contrary to this rule, they shall be liable, for the second and every subsequent offence, to fine and imprisonment.

A.D. 1802. REGULATION XXVII.

[Framed upon Regulation XIV., 1793, of the Bengal Code.]

A Regulation* *prescribing the Modes for the Recovery of Arrears of Public Revenue from actual proprietors of land, or farmers of land holding farms immediately from Government in the British territories subject to the Presidency of Fort St. George:* Passed *by the Governor in Council of Fort St. George, on the* 13*th of July*, 1802.

Whereas it is expedient for the prevention of unnecessary delay in the realization of the public revenue, and of litigious disputes on the part of persons paying revenue to Government, that the collectors of the several zillahs should have authority to use summary process in certain cases for the purpose of enforcing, without the expense of a lawsuit, the just demands of the estate upon actual proprietors of land, and farmers of land holding farms immediately from Government; and whereas the indispensable rules of justice require that a power established for the convenience of the state should not be converted into an instrument of

* The provisions of this Regulation were extended to districts of which the revenues are not permanently settled by Sec. vi., Reg. II., 1806.

The rules of this Regulation are rendered applicable to the recovery of arrears of any branch of the public revenue under the same provisions and restrictions for the protection of the payers of such revenue and their sureties as are herein contained. See Secs. ii. and iii., Reg. I., 1826. See, also, Regs. I., 1816, and V., 1832.

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private oppression and wrong; it is further expedient that such discretionary power should be exercised at the peril of the collector; wherefore the following rules have been enacted for the recovery of arrears of revenue.

Proprietors of land to pay the kist of each month on or before the first of the following month without waiting for its being demanded.

II. *First.* Every proprietor of land (which designation, whenever it occurs in any regulation, shall describe zemindars, independent talookdars, and all actual proprietors of land who pay the revenue assessed upon their estates immediately to Government), and every farmer of land holding a farm immediately from Government, shall cause the whole of the instalments of his monthly kist to be paid into the treasury of the collector of the zillah, or to the tehseeldar or other officer who may be appointed to receive the public revenue assessed on his estate or farm, on or before the first day of the following month, without waiting for the amount being demanded by the collector or the tehseeldar or other officer.

What shall be deemed an arrear of revenue.

Second. Where the portions or the whole of a kist payable by a proprietor or farmer of land according to his cabooleat in the course of any month shall remain unpaid on the first of the following month, the amount of the kist, or portions of the kist, so remaining unpaid, shall be deemed to be an arrear of revenue.

Arrear of revenue to be demanded on its falling due.

III. Where an arrear of revenue may remain undischarged, the collector, tehseeldar, or other public officer to whom the revenue may be payable, shall immediately demand payment thereof in the mode prescribed.

Demand to be made in writing.

What the writing is to contain and how served upon the defendant.

IV. Where a collector may have occasion to require payment of an arrear of revenue from any actual proprietor of land, or any farmer of land, he shall demand the discharge of it by a writing under his official seal and signature, specifying the amount of the arrear and the date on which it became due, and requiring it to be paid at the treasury of the collector within a certain number of days after the day on which the writing may be served in the manner herein specified. In fixing the day for the payment of the arrear, the collector shall advert to the distance of his place of residence from the estate or farm of the defaulter, and allow a reasonable time for him to convey the money to the public treasury. The collector shall deliver the writing to a single peon, with directions to proceed either to the principal cutcherry of the defaulter in the estate or farm on account of which the arrear may be due, or to the usual place of abode of the defaulter, if it be within the limits of his zillah, according as he may deem advisable. The defaulter, or his head officer in attendance in such cutcherry, shall grant, and the peons shall take a receipt for the writing, specifying the date on which it may have been presented. The defaulter or his officer above mentioned shall pay to the peon one fanam and thirty cash per day for his subsistence (excepting in districts where custom has fixed the subsistence-money of peons at a lower rate, in which case such lower rate, and no more, shall be exacted) during the time allowed for delivering the writing, and returning to the collector; the name of the deputed peon, the amount of his subsistence-money, and the number of days for which he is to receive it, shall be indorsed on the writing. Where the deputed peon may not meet nor obtain admittance to the

defaulter, or to his head officer, on or before the evening of the day following that on which he may arrive at the usual place of abode, or at the cutcherry above specified of such defaulter, or where the defaulter or his head officer may refuse or omit to give the receipt above required to the said peon immediately upon his presenting the writing, the peon shall on the same evening fix up the writing on the outer door or gate of such place or cutcherry, and shall return to the collector, to whom he shall report the date on which he may have fixed up the writing. Written demands for arrears so presented to a defaulter, or to his head officer, or fixed up at his usual place of abode, or at his cutcherry before mentioned, shall be considered to have been duly served upon him.

Consequence of the arrear not being discharged.

V. Where an arrear of revenue may not be discharged agreeably to the demand, or assurance given for the due discharge thereof to the collector's satisfaction, he shall proceed without delay to attach the property of the defaulter to such extent as may be sufficient to make good the arrear.

Land the security for the revenue.

VI. *First.* The landed estate shall be regarded as the security of the public revenue.

Landed property the last thing liable to attachment.

Second. It shall however be at the option of the debtor to yield up his personal property, or a portion thereof, to discharge the debt, in preference to the sale of his lands.

Personal property how to be distrained.

Third. In the distraining or sale of personal property, the same rules shall be observed as are laid down in the regulations for empowering landholders to distrain and sell the property of under-farmers.

Proprietors of land only liable to confinement in two cases.

VII. *First.* Proprietors of land shall not be liable to actual imprisonment for arrears of revenue, unless in the cases following:—

Second. Where the entire estate and personal property of a proprietor may be sold for the discharge of arrear of revenue or other debt to Government, and the proceeds of the sale may not be sufficient to make good the sum due.

Third. Where the entire lands and personal property of a proprietor may be put up to sale, and no person may offer to purchase them.

Such confinement to be reported to the Board of Revenue within a given time.

Fourth. Where a collector may confine a proprietor of land under this section, he shall within twenty-four hours report such confinement to the Board of Revenue at the Presidency.

Interest to be taken on arrears.

VIII. Arrears of revenue shall bear an interest of one per cent. a month.

Proprietors or farmers how to recover undue exactions.

IX. Where a collector may demand a sum of money from a proprietor or farmer of land as an arrear of revenue, and where such proprietor or farmer may deny, by a writing to that effect addressed to the collector, the justness of the claim in whole or in part, but in order to prevent any further process being issued against him may discharge the demand in full, the proprietor or farmer shall be at liberty to sue the collector in the Court of Adawlut of the zillah for the recovery of whatever money may have been unduly exacted; the court shall give judgment in favour of the complainant for all such sums as he may have paid beyond the amount due, and shall further adjudge the same to be refunded from the public

treasury of the zillah, with interest at the rate of twelve per cent. per annum from the date of the exaction to the fulfilment of the decree, with costs of suit.

Precautions to be taken for the security of the revenue in attaching the lands of a proprietor or confining a farmer of land.

X. *First.* Where a collector may proceed to attach the lands of a zemindar, or to confine a farmer of land, he shall depute an ameen with a proper establishment of officers to collect the rents and revenues from the estate or farm of the defaulter. The collector shall transmit the establishment to the Board of Revenue, with a recommendation that it be confirmed or altered, as it may appear to them advisable; the expense of the establishment of the ameen when approved, and all other charges attending his deputation, when admitted by the Board of Revenue, shall be defrayed by the defaulter, and disbursed from the revenues collected from his estate or farm; the dewan or head native officer of the defaulter, or any other person whom he may think proper to appoint, shall keep a counterpart of the accounts of the receipts and disbursements of the ameen; the ameen shall collect the rents and revenues according to the engagements subsisting between the defaulter and his dependent talookdars, under-farmers, and ryots, but shall not make any alterations whatever in such engagements, nor exact more than the amount specified in them; the ameen shall be liable to prosecution in the Adawlut of the zillah for any alteration or infringement of such engagements. Where no engagements may exist between the defaulter and his dependent talookdars or ryots, the ameen shall collect the rents and revenues from them according to the established rates and usages of the purgunnah; the ameen shall likewise be subject to prosecution at the suit of the proprietor of the estate, or at that of the farmer, for embezzlement, or for injuries done to the estate or farm during the time when the collection of the rents and revenues of it may be entrusted to him. Where the estate or farm of the defaulter may be too inconsiderable to admit of its being charged with the expense of the appointment of an ameen, it shall be committed to the charge of the nearest tehseeldar or other officer employed under the collector in the business of the revenue, who shall perform the duties above prescribed to the ameen under the same restrictions and penalties.

Collusive agreements shall be void.

Second. Where the existing engagements upon the attachment of lands may be proved to be collusive or fraudulently contrived, with a view to defeat the effects of the attachment, such engagements shall not be binding on the collector or his officers, who shall in that event be at free liberty to make such arrangements for the collection of the revenue as may be consistent with the usage of the province and the rules of justice.

Payments shall not be made but agreeable to written agreements or usage.

Third. Proprietors or farmers of land shall not demand or receive from under-tenants or ryots, payment of rents or revenues otherwise than may have been provided by written agreements, or by the usual time of payment according to local and established usage. Where lands may be attached for the recovery of arrears of rents or revenues due to Government, the payment of such rents or revenues by anticipation to the defaulting proprietor or farmer shall not exempt the under-farmers, tenants, or ryots from paying to Government the rents or revenues due from their lands according to the existing written agreements, or to the established usage of the district; but when such anticipated payments of

Anticipated payments shall not be made.

rents or revenues may be made by which the purposes of attaching the lands might otherwise be frustrated, the under-farmers, tenants, or ryots shall be liable to pay to the officers of Government the rents or revenues so anticipated contrary to the agreement or usage, in the same manner as if no such anticipation had happened.

Agreements to that effect shall be held void.

Fourth. Where actual agreements may have been made for the purpose of anticipating the receipt of rents or revenues from lands liable to attachment for the public revenue, such agreement shall, on sufficient proof of the collusion, be null and void; and the under-farmers, renters, or ryots shall nevertheless pay to the officers of Government the rents or revenues due from their lands in the same manner as if no such agreements had been made.

After attachment, no payment of the rents to be made.

Fifth. When proclamation may have been made of the attachment of the lands of a defaulting proprietor or farmer of land, on account of rents or revenues due to Government, under-farmers, tenants, and ryots shall not pay to such defaulting proprietor or farmer any rents or revenues, notwithstanding such rents or revenues may be due according to agreement or local usage.

Credit not to be allowed for payments so made.

Sixth. Where under-farmers, tenants, or ryots may pay to defaulting proprietors or farmers of land any rents or revenues, after proclamation of the attachment of the lands or other property of such defaulting proprietors or farmers, on account of rents or revenues due to Government, such under-farmers, tenants, or ryots shall nevertheless pay to the officers of Government the rents and revenues so paid subsequently to proclamation, in the same manner as if such payment had not been made. It shall be competent, however, to the under-tenants to sue the proprietors in the Courts of Adawlut for the recovery of such sums as they may have advanced to them on the rents of the estate, in like manner as for any other debt.

Such payments, however, recoverable from the defaulter by the under-tenant.

Persons confined by the collector for arrears at liberty to institute a suit against him to try the justness of the demand.

XI. *First.* Where proprietors or farmers of land confined for arrear of revenue, which arrear may not have been adjudged to be due by a judicial decree, may consider the demand not to be warranted by their engagements with Government, they shall have free liberty to prosecute the collector for such confinement in the Adawlut of the zillah. Where no part of the arrear may be due, the judge shall release such proprietors or farmers, and decree such costs and damages against the collector as he may deem to be equitable upon a consideration of the circumstances of the case. Where only a part of the demand may be proved to be due, the court shall discharge the defaulter on his paying such part. In both cases, however, the court shall, previously to the release of such defaulters, take good security from them for the execution of the final decision in appeal, where the cause may be appealed by the collector. Where collectors may represent to the court that an appeal will not be preferred from the decision, or where the appeal may not have been lodged within the time limited for preferring appeals, the judge shall release the defaulters without taking such security.

Such suits shall be speedily prosecuted.

Second. Suits instituted under this section shall be prosecuted within a reasonable period of time, not exceeding three months in any case from the confinement of the defaulter; and on failure thereof, the prosecutor shall be nonsuited.

XII. *First.* Persons confined for arrear of rents or revenues due to Government shall have liberty to move the *judge of the zillah* to compel such collector to shew cause for such continued confinement. Where the person making such motion may be confined under the decree of a Court of Adawlut, and the time prescribed for appealing from the decision may have elapsed, the judge is not to enter into the merits of the case, but shall simply inquire whether the defendant has discharged the amount of the decree, and the sums which may have become due from him subsequently to his confinement. Where the defendant may not be confined under a judicial decree, but under the process which collectors are empowered by this regulation to issue for the purpose of conveying persons to jail in order to secure the revenues of Government, and where such defendant may dispute the demand, the judge shall not anticipate the merits of the case, but shall leave the defendant to prosecute the collector: where, however, the defendant, admitting the validity of such demand, may plead the demand having been actually discharged, the judge shall proceed to investigate the matter of fact. Where it may appear on examination of the defendant's accounts (which examination shall be considered to be a continuation of the original suit or process, and not a new suit or process), that the demand for which he may be in confinement has been liquidated, the judge shall release the defendant on his giving security to make good any sum which the collector may state to be still due from him, in the event of the cause being appealed and of the sum disputed being awarded in favour of Government. Where the collector may not object to the adjustment of accounts made by the court, or where the collector objecting to the adjustment, the defendant may omit to give the security above required, or where the collector may omit to appeal within the time limited for lodging appeals, the judge shall release the prisoner without taking security. Where the whole or a part of the money for which the defendant is confined may remain undischarged, or where such defendant, acquiescing in the adjustment of accounts made by the court, may have been confined on account of such demand for a term exceeding one year, the judge shall have power to release him on his giving good security for payment of the remaining debt by instalments, during the course of one year after his release. The collector and the defendant shall have a right of appeal from the decisions passed by the *Zillah* Court, in the event of either of them being dissatisfied with such decision.

Judges empowered to require collectors to shew cause why a defaulter is continued in confinement under a judicial decree, and how to proceed in such cases.

Second. For the better securing to the party a speedy delivery from erroneous or wrongous imprisonment, such suits shall be conducted by oral process, unless where the party confined shall otherwise desire.

Oral process competent in such cases.

XIII. *First.* Where a collector may proceed to arrest an actual proprietor of land in the particular cases authorized, or a farmer of land, for the recovery of arrears, he shall depute two peons, and no more, with a writing under his official seal and signature, which writing shall specify the amount of the arrear due from the defaulter, the date on which it became payable, and generally the causes of the arrest, and shall require the defaulter to deliver himself into the custody of the peons, that they may convey him to the jail of the zillah. The peons shall proceed with the defaulter directly to the jail. On the arrival of the defaulter at the jail, the collector shall apply to the court, by motion in writing, through the

Process to be observed by collectors in confining defaulters.

Defaulters to be conveyed to the Adawlut jail.

Motion in writing to

be made to the Court for his confinement.

What the motion is to contain.

vakeel of Government, for the confinement of the defaulter, which writing shall become a record of the court. The motion shall specify the amount of the arrear due from the defaulter, the date on which it became payable, and generally the causes of the arrest.

Judge to confine the defaulter.

On receipt of the motion, the judge shall order the defaulter to be confined in the jail of the zillah, and shall detain him there until he discharge the arrear for which he may have been confined in the first instance, as well as all subsequent arrears which may have accumulated during his confinement, or until the collector apply to the court by motion made as above directed for his release.

Subsistence money to be paid to the peons.

Peons deputed to take defaulting proprietors or farmers of land into custody shall be entitled to receive from each defaulter one fanam and thirty cash per day each for their subsistence (excepting in districts where custom has fixed the subsistence-money of peons at a lower rate, in which case such lower rate, and no more, shall be exacted) during the time allowed for taking such defaulters into custody and conveying them to jail. The names of the peons deputed, the amount of the subsistence-money, and the number of days for which they are to receive it, shall be indorsed on the writing. Where the defaulter may not reside or not be within the limits of the zillah, the collector shall send two peons with the writing above mentioned to the collector of the zillah in which the defaulter may be or reside at that time, and such collector shall assist to take the defaulter into custody, and to convey him to the jail of the zillah in which he may be so apprehended. The collector issuing the writing shall forward to the vakeel of Government in such zillah the prescribed motion for the confinement of the defaulter, so that he may have it ready to present to the judge on the arrival of the defaulter at the jail. The collector shall likewise specify in the writing the name of the zillah to the jail of which the defaulter is to be conveyed. With the above exceptions, as to the mode of serving the process, and as to the jail in which the defaulter is to be confined, the other rules contained in this regulation shall be held equally applicable to the case, as if the defaulter had been confined in the jail of the zillah containing the lands on account of which the arrear may be due. Suits or complaints which the defaulter may have to prefer against the collector or his officers, or the ameen deputed to take charge of his lands, shall be lodged in the court of the last-mentioned zillah, and the *judge of that zillah* in the jail of which the defaulter may be confined, shall give effect to all decrees or orders which may be transmitted to him by the *judge of the zillah* in which the suits or complaints of the defaulter may be so lodged.

In what cases farmers and their sureties may be arrested without a regular demand of the rent being first made.

Second. Where a farmer of land may have given security, and where no reason may exist to apprehend an intended flight, the collector shall not issue the process above prescribed for the confinement of the defaulter, or of his surety, until the defaulter may have been regularly served with the written demand for the arrear; but where reason may exist to believe that the defaulter or his security is about to abscond, the collector shall have power to issue the process prescribed in this section both against the defaulter and his surety, without previously demanding the rent in the manner otherwise required.

Tehseeldars and other mofussil officers authorized in certain cases to arrest farmers and their securities.

Third. Where tehseeldars or other mofussil officers entrusted with the collection of the revenues may have reason to believe that any defaulting farmer or his surety is about to abscond, so as not to allow time for his

making the regular report to the collector, the mofussil officers shall have power to arrest such defaulter and his surety, by a process under his own seal and signature, and to cause the party so arrested to be immediately conveyed to the collector to be further proceeded against.

Collectors may in certain cases delay sending the defaulter to the jail.

Fourth. Instead of conveying the defaulter forthwith to the jail of the zillah, the collector shall have power (if the defaulter shews a disposition to adjust and satisfy the demand) to keep him in the custody of peons during a period not exceeding ten days from the date of his arrival at the collector's station; at the expiration of which ten days, if the arrear be not paid, or satisfaction given for the payment thereof, the defaulter shall be brought before the *judge of the zillah*, and confined in the jail of that court. But this shall not restrict the collector from exercising the powers given in this section, where the defaulter may shew no disposition to adjust and satisfy the demand upon him; or where, for other good and sufficient reason, it may appear to the collector objectionable to suspend the confinement of the defaulter or his surety.

Attachments when to be withdrawn.

Fifth. After the attachment of the lands of defaulting proprietors, or of the farms of defaulting farmers, where the arrear due, together with the further arrear which may become due from the same proprietor or farmer, and with the interest thereon at the rate of one per cent. per mensem, may be discharged at any period of the then current revenue year, including the expenses of attachment undefrayed from the income of the estate or farm, the attachment shall be forthwith withdrawn, and a due account rendered of all receipts and disbursements during the continuance of it. All moneys received from the estate or farm attached, after paying the salaries or wages of the officers required to collect the rents, shall be carried to the credit of the proprietor or farmer during the current year, in discharge of the arrear and interest due from him.

Accounts to be rendered in such cases.

Collector how to proceed when a proprietor of land refuses to obey or resists the process issued against him.

XIV. *First.* Where a collector may issue the process prescribed against an actual proprietor of land on account of arrear of the public revenue, and where the defaulter may refuse to obey, or resist or cause to be resisted, the peons deputed by the collector, or abscond, or shut himself up in his own or any other house, or in any building, or retire to any place so that the process cannot be served upon him, the collector who may issue the writing shall move the *judge of the zillah*, through the vakeel of Government in the court, to arrest the defaulter, and the *judge of the zillah* shall, upon receiving the *oaths* of two or more credible persons to the truth of the circumstances, require the defaulter, by a publication in writing, to deliver himself into the custody of the court within four weeks, calculating from the day following the date of the publication. The publication shall be written [*in the Persian language and*] in the dialect of the district; it shall be fixed up as early after the date of it as may be practicable, at the usual place of abode, or at the principal cutcherry in the estate of the defaulter, in the office of the collector, and the court-room of the Adawlut of the zillah. The collector shall continue the ameen deputed to collect the rents and revenues of the estate in the same manner as if the process issued had been duly served and obeyed by the defaulter.

Decree to be passed by the *Zillah* Court where the defaulter may

Second. Where the defaulter may not surrender himself before the expiration of the time limited in the said publication, or where he may

not surrender himself within the time limited, or if he shall deliver himself up and the charge be proved against him.

Decree and proceedings to be transmitted to the Governor in Council if the defaulter shall not appeal within the limited time.

How the *Provincial* Court shall act on an appeal being made to it.

How the Sudder Adawlut shall act on an appeal being made to it.

Collector how to act if the *zillah* judge should declare the charge not proved.

Collector how to act if the zillah judge should declare the charge proved and the *Provincial* Court shall reverse the decision.

What decrees of the *Provincial* Courts shall be appealable under this section.

deliver himself up within the prescribed time, the judge, after receiving such answer as may be made for the defaulter, with the evidence which may be produced in his defence, and after receiving that which the collector may adduce in support of his case, shall, upon proof of the charge, decree the proprietary right of the defaulter and of his heirs in the estate to be forfeited to Government. Where the defaulter may not appeal from the decree of the *Zillah* Court to the *Provincial Court of Appeal*, the *zillah judge* shall transmit to the Governor in Council a copy of the decree, and of all the proceedings in the case. Where the defaulter may appeal to the *Provincial Court of Appeal*, and where the *Court of Appeal* may confirm the decision of the *Zillah* Court, the cause not being appealable to the Sudder Adawlut, the *Provincial* Court shall forward a copy of the decree and proceedings in the *Court of Appeal* and of the proceedings and decree of the *Zillah* Court to the Governor in Council. Where an appeal may be received from the decision of the *Provincial Court of Appeal*, and the Sudder Adawlut may confirm the decree of the *Provincial* Court, a copy of the decree and proceedings received from the *Provincial Court of Appeal* shall be furnished to the Governor in Council. Where the judge of the *Zillah* Court may give judgment against the collector, the defaulter shall nevertheless be detained in confinement in the same manner as if the process prescribed had been duly served; a copy of the decree and proceedings shall be furnished by the court to the collector on his application. In this case the collector shall not appeal from the decision of the court without authority had for that purpose from the Board of Revenue. In the event of such appeal, and if the *Provincial* Court may reverse the decision of the *Zillah* Court, the cause not being appealable to the Sudder Adawlut, the *Provincial* Court shall transmit a copy of the proceedings and decree in the appeal, and of the decree and proceedings of the *Zillah* Court, to the Governor in Council. Where the judge of the *Zillah* Court may give judgment in favour of the collector, and the decision be reversed in the *Provincial* Court, the collector shall not appeal to the Sudder Adawlut, except by authority had for that purpose from the Board of Revenue. Where appeal may be made to the Sudder Adawlut, and the decision of the *Provincial* Court reversed, a copy of the decree and proceedings, and of the decree and proceedings received from the *Provincial Court of Appeal*, shall be furnished to the Governor in Council. Appeal shall not lie from the *Provincial* Court to the Sudder Adawlut, unless the annual produce of the estate of the defaulter, on account of which the arrears may have been demanded, may exceed one thousand *Arcot* rupees, to be calculated according to the amount paid or payable by the dependent talookdars, under-farmers, or ryots, to the defaulter, on account of the year in which the decision of the *Zillah* Court may pass. To which end, the collectors shall state generally in their petitions of appeal, whether the produce of the estate exceeds or not, according to their information and belief, the sum of one thousand *Arcot* rupees. Where the defaulter may not surrender himself within the prescribed time, or where, having surrendered himself within the limited time, the collector may have stated the produce of the estate to be less than one thousand *Arcot* rupees, and the defaulter may not deny the truth of the collector's statement, a cause brought under such circumstances before the *Provincial Court of Appeal* shall not be appealable from the decision

of the *Provincial* Court to that of the Sudder Adawlut. Where a defaulter appealing from the decision of a *Zillah* Court may, in his answer to the charge, object to the statement made by the collector respecting the produce of his estate, the *judge of the zillah* shall proceed to try the objections, and shall pass decision on them according to equity and justice. Where a cause may under such circumstances be afterwards brought before the *Provincial Court of Appeal*, and no objection be offered by either party to the decision of the *Zillah* Court on the collector's statement of the produce of the estate, such decision shall be held to be accurate. Where objections to the decision of the *Zillah* Court may be offered, the *Provincial* Court shall try the objections, and decide on them according to equity and justice. Where an appeal from the decree of the *Provincial* Court may be made to the Sudder Adawlut, and the admission or rejection of the appeal depend on the produce of the estate exceeding or falling short of one thousand *Arcot* rupees, the Court of Sudder Adawlut shall examine the decisions of the inferior courts on this point, and decide whether the cause be or be not appealable; decrees passed under this section by the *Zillah* Courts, or by the *Provincial Courts of Appeal*, or by the Sudder Adawlut, by which the proprietary right of the estate of a defaulter may be judged to be forfeited to Government, shall not be carried into execution in any case whatever without an order from the Governor in Council for that purpose. In the event of the Governor in Council commuting the forfeiture for a fine, the court which may have transmitted the decree and proceedings to the Governor in Council shall, on receiving notice of the fine, levy the amount of it by the usual process for enforcing decrees of the court, and shall pay the amount to the collector of the zillah. The suit which a collector may institute against a defaulter in the *Adawlut of the zillah* under this section, as well as the prosecution or defence of any appeal from the decision of such court which may be made to the *Provincial Court of Appeal*, or from the decree of the *Provincial* Court to the Sudder Adawlut, shall be carried on at the public expense and be conducted by the vakeel of Government.

Decrees passed under this section shall not be carried into execution without an order from the Governor in Council.

If the forfeiture is commuted, by what court and how it is to be executed.

Process and appeals under this section to be conducted by the vakeel of Government, on the part of the collector, and at the public expense.

XV. Where a defaulter may, under Clause Second of Section XIV., retain the proprietary right in his estate, the collector shall account to him for the amount received through the ameen; and where such amount may exceed the public revenue due from the estate, the expenses attending the deputation of the ameen, and the fine imposed on the defaulter, the overplus shall be paid to the said defaulter. Where the money collected by the ameen may be inadequate to the payment of the several demands above mentioned, and the defaulter may not make good the deficiency, a portion of his lands shall be sold for the discharge of the debt and expenses.

Proceeds of the estate of the defaulter whilst attached to be accounted for to him if the forfeiture should be commuted for a fine.

Portion of the defaulter's estate to be sold if the proceeds should not be adequate to answer all demands against him and he should not discharge them.

XVI. Where the Governor in Council may choose to confer a forfeited estate on the heirs of a defaulting zemindar, notice of such resolution shall be transmitted by the collector to the *judge of the zillah* where he may be confined, and the judge shall, on such notice, cause the said defaulter to be released. Where the Governor in Council may choose to dispose of such forfeited estate by sale, the proceeds of the sale shall be appropriated in the first instance to the discharge of the debt due to Government, either

Form to be observed where the estate may be conferred on the heirs of the defaulter.

What shall be consequent on the estate being sold.

on account of the public revenue, or of the expense attending the deputation of the ameen, or of other charges incurred in consequence of the default of the former proprietor; after such debt with the said charges shall have been liquidated, the remaining proceeds shall be carried to the public account, or applied in any other manner that the Governor in Council may direct.

Collectors how to proceed when a farmer refuses to obey or resists the process issued by him, or escapes from the peons or prevents the process being served upon him.

XVII. Where a collector may issue the process described against any farmer of the Government lands for arrear of the public revenue, the provisions of the XIV. Section, prescribing the mode of proceeding against proprietors of land, shall be applicable to this case; and in all cases of judgment against such farmers of land the lease shall be taken and considered to expire at the termination of the then current Fusly or revenue year. Where a fine may be imposed on a defaulting farmer of Government land, in lieu of the entire forfeiture of his lease, the court transmitting the final decree and proceedings to the Governor in Council shall, on receiving notice of the fine, levy the amount by the usual process of enforcing the decrees of the court, and pay the amount to the collector of the zillah.

Accounts with the defaulter how to be settled if the lease should be annulled.

Balance, if any due, to be levied from him and his surety.

XVIII. Where the lease of a defaulting farmer of Government land may be annulled, he shall receive credit for the revenue collected by the ameen after deducting the charges admitted by the collector. Where a balance may still remain due from him to Government at the close of the annulled lease, both the farmer and his surety shall be responsible for the payment of such balance: the collector shall in this event serve the surety with the written demand prescribed in Section XIII. for the amount, and where it may not be discharged within the time limited in the writing, the collector shall proceed against the surety and the defaulter also in the mode of procedure provided against defaulters. Where a surplus may remain after discharging all the demands above mentioned, it shall be paid to the defaulter. The defaulter shall be at liberty to prosecute in the *Zillah* Court the dependent talookdars, under-farmers, and ryots on the lands included in the farm, for any arrears of rent or revenue due from them to him on account of the time during which his lease remained in force.

Surplus, if any, to be paid the defaulter.

Defaulter to be at liberty to prosecute dependent talookdars, under-farmers, and ryots, for arrears in the *Dewanny Adawlut of the zillah.*

Collector how to proceed when sureties of proprietors or farmers of land refuse to obey or resist the process issued by him under Clause Second, Section xiii., or escape from the peons, or prevent the process being served upon them.

XIX. Where a collector may issue the process prescribed against the surety of any proprietor or farmer of land to convey him to jail, and such defaulting surety may refuse to obey, or resist, or cause to be resisted, the peons deputed by the collector to convey him to jail, or escape after being taken by them into custody, or abscond, or shut himself up in his own or any other house, or in any building, or retire to any place so that the process cannot be served upon him, the mode of procedure prescribed against proprietors or farmers of land shall be observed with regard to such sureties.

Collector to attach lands of sureties whom he may proceed to confine sufficient to answer the demand against them.

XX. *First.* Where a collector may proceed to confine the surety of any proprietor or farmer of land, in the cases authorized in this regulation, he shall cause such portion of the defaulter's lands as may be estimated to be sufficient to make good the amount of the demand in the event of their

being sold, to be attached under the rules prescribed for the attachment of the lands of defaulting proprietors. When the surety may not possess any landed property in the zillah, the collector shall depute an ameen into the zillah in which the defaulting surety may have landed property, with a written statement of the amount of the demand on such surety and of the property to be attached. The collector of such zillah shall afford to the ameen the necessary assistance for the attachment of the property, in the same manner as if the failure had occurred within his own limits. The ameen shall apply the money collected from the lands, after deducting the admitted expenses, to the discharge of the public revenue, by paying it to the collector of the zillah in which the lands are situated. Where a surplus may remain after discharging the public debts, it shall be appropriated to the discharge of the demand on account of which the lands may have been attached. Where the property attached may not admit of its being charged with the expense of an ameen, the collector to whom the money due from the surety may be payable shall apply to the collector of the zillah in which the lands are situated, and the collector receiving the application shall comply with it by providing for the administration of the revenue of the said lands according to the duties prescribed to the ameen, and under the same restrictions and penalties. The collector of the zillah in which the lands are situated shall not be liable to prosecution on account of such attachment, but the collector on whose application the attachment may take place shall be responsible for the consequences, in the same manner as if the lands had been situated in his own zillah.

How the collector is to proceed if the surety possesses no lands in his zillah.

Second. The above rules shall be applicable to such landed property of defaulting farmers as is liable to attachment, which property shall in such case be attached at the time of attaching their farms.

The above rules shall extend to landed property of farmers.

XXI. Where a decision may have been passed by a Court of Adawlut, in consequence of which the whole or any part of a sum of money demanded, or actually received by a collector, as an arrear of revenue, under this regulation, from any proprietor or farmer of land, may be adjudged to be not due, the collector shall be furnished, on application to the court through the vakeel of Government, with a copy of the proceedings and decree; but the collector shall not appeal from the decision of the *Zillah* Court, nor ultimately from the decision of the *Provincial Court of Appeal*, unless by virtue of written authority from the Board of Revenue for that purpose, which authority shall be shewn at the time and lodged together with the appeal. In all cases in which the Board of Revenue may order the collector to appeal from the inferior to the superior court, the collector shall be indemnified by Government for all costs and damages awarded against him by the courts.

Collector how to proceed in case of his being cast in a prosecution instituted against him in the *Zillah* Court on account of sums demanded or received by him as arrears of revenue.

XXII. Where a collector may be prosecuted, and the prosecutor, being cast, may be dissatisfied with the decision of the *Adawlut of the zillah*, so as to appeal to the *Provincial* Court, the collector shall appoint one of the vakeels of the *Provincial* Court to plead the cause. Where the decree of the *Zillah* Court may be confirmed, or the appellant, being dissatisfied with the decision of the *Provincial* Court, may appeal to the Sudder Adawlut, the collector shall appoint one of the pleaders in the Sudder Adawlut to maintain the suit. Where the *Provincial Court of Appeal* may not

If persons prosecuting under Secs. xi. and xii. shall be cast and appeal, the collector is to nominate one of the vakeels of the *Provincial Court of Appeal* to defend the appeal.

If the decision of the *Zillah* Court should be confirmed and the cause be appealed to the Sud-

der Dewanny Adawlut and an appeal be admitted, the collector is to appoint one of the vakeels of that court to defend the appeal.

confirm the decision of the *Zillah* Court, the collector, on application to the *Provincial* Court, shall be furnished with a copy of the proceedings and decrees of both courts; but the collector shall not appeal from the decision of either court without written authority had and obtained from the Board of Revenue for that purpose, which authority shall be lodged with the appeal.

What suits against a collector are to be considered of a personal nature.

XXIII. In prosecutions which may be instituted in the Court of Adawlut against the collectors for sums of money demanded or taken, directly or indirectly, for their own use, from any proprietor or farmer of land, or from any surety, or from any purchaser of land, or for any acts done in their official capacity repugnant to this regulation or not warranted by it, or for any acts which may not involve claims to moneys received or demanded by him on behalf of Government in conformity to this regulation, the suits shall be considered to be entirely of a private nature between the collectors and the prosecutors; the collectors shall defend such suits at their own risk and expense, in the same manner as other individual persons amenable to the jurisdiction of the courts not being employed by Government.

How far collectors may derive advantage from suits.

XXIV. Collectors shall not derive pecuniary advantage from suits which they may institute, or which may be instituted against them in the Courts of Judicature in their official capacity, with the exception of suits in which they may be engaged under Section XXIII., the sums awarded to them in which shall be applicable to their own use; but collectors shall not sustain loss by recovering the debts of Government in cases in which their conduct may be adjudged by a final judicial decree to be conformable to this regulation.

In what cases surety shall be demanded from a collector.

XXV. Security shall not be demanded from collectors for their personal appearance in any public suit in which they may be engaged under this regulation, nor shall security be required from them for the payment of costs, or for the performance of the decrees or orders of the court, in suits which by this regulation are to be conducted by the vakeels of Government at the public expense. In suits of a personal nature, collectors shall give the same security for the payment of the costs and the performance of the decrees and orders of the courts, as individual suitors. Where collectors may refuse or omit to pay, within the limited time, sums of money ordered to be levied from them on account of personal suits, or on account of the costs or damages of such suits, the court shall levy the amount by the customary process; where the court may be unable to obtain payment, the judge shall state the case to the Governor in Council, in order that the amount may be paid from the public treasury and deducted from the salaries of such collectors. In cases where collectors may omit or refuse to obey the orders or decrees of Courts of Judicature, the court from which the process may have issued shall have power to fine them according to the nature of the offence. In the event of collectors refusing or omitting to pay the fine, the courts shall state the case to the Governor in Council, in order that the amount may be recovered through the interference of Government.

Process on a collector how to be served.

XXVI. Where process or orders may be issued by the Courts of Judi-

cature to collectors of zillahs (in suits instituted under this regulation) the register* of the court issuing the process or order shall transmit it under a cover sealed in the form of a letter, and superscribed with his name and official appellation, and addressed "To the Collector of the zillah of." The collector shall acknowledge the receipt of the process or order on the day on which he may receive it by a letter addressed "To the Register* of the Court of."

Collector's instructions to the vakeels, how to be forwarded.

XXVII. The instructions which collectors may transmit to the vakeels of Government in the courts shall be inclosed under a cover sealed and directed to the vakeels, and transmitted under a sealed cover addressed to the register* of the court in which the cause may be depending, and superscribed with the official appellation of the person dispatching it. The register* of the court shall deliver such instructions sealed to the vakeel. In like manner the vakeel shall transmit, through the register* of the respective courts, the papers and documents they may have to return to the collectors.

Collector not liable for acts of his predecessor.

XXVIII. Collectors shall not be liable to prosecution for the official acts of their predecessors. But collectors engaged in suits for which they are personally answerable, and removed from office, pending such suits, shall carry them on in the same manner as if they had continued in office.

Collectors to carry on former processes.

XXIX. Where collectors may die or be removed from office, their successors shall carry on such process or suits, for which the Government may be ultimately responsible, as may be depending in the courts at the time of such death or removal.

Expense of countermanded sales to be sustained by the defaulter.

XXX. Where property having been attached may be ordered to be put up for sale, and the sale may be countermanded, the proprietor shall nevertheless be responsible for the expenses incurred in consequence of the attachment, in the same manner as if the sale had taken place; and in the event of such proprietors omitting to discharge the amount, it shall be recoverable by the process under which the original demand would have been prosecuted.

See Act XXIII, 1840.

Process of arrest, how to be served on persons resident within the town of Madras.

XXXI. Where a proprietor or farmer of land, against whom a collector may issue process for arrest, may be or reside within the limits of the town of Madras, the collector shall send the written demand to the Board of Revenue. Where the defaulter may be apprehended and conveyed to the jail of the zillah by the authority of Government, he shall thenceforward be treated in all respects as if he had been apprehended within the limits of such zillah.

Arrears for tuccavy, how recoverable.

XXXII. Advances of money for tuccavy or for repairs of tanks shall be recoverable in the same manner as arrears of revenue.

Collectors' assistants included in the above rules.

XXXIII. The rules respecting collectors contained in this regulation shall be applicable to the assistants of collectors, or to other persons

* The office of Register now exists only in the Sudder Court.

appointed by the Governor in Council to officiate as collectors of revenue during temporary vacancies.

Female proprietors not liable to arrest nor personal attendance.

Other proprietors, how far exempted.

XXXIV. This regulation shall not be construed to empower a collector to take a female proprietor of land into custody, nor to cause the personal attendance of such female proprietor, nor to take into custody, nor to require the personal attendance of any proprietor of land with whom a settlement shall have been concluded, or any farmer of land, or his surety, except in the cases specified in this regulation, in which they are authorized to issue process against the persons of such proprietors, farmers, or sureties.

A.D. 1802. REGULATION XXVIII.

[FRAMED UPON REGULATION XVII., 1793, OF THE BENGAL CODE.]

A REGULATION* *for empowering Landholders and Farmers of Land to distrain and sell the Personal Property of Under-farmers and Ryots; and in certain cases, the Personal Property of their Sureties, for Arrear of Rent or Revenue, and for preventing Landholders and Farmers of Land from confining or inflicting corporal Punishment on their Under-farmers and Ryots, or their Sureties, in the British Territories subject to the Presidency of Fort St. George:* PASSED *by the Governor in Council of Fort St. George, on the* 13*th of July*, 1802.

IT being necessary to the punctual collection of the public revenue that landholders and farmers of land should have the means of compelling payment from defaulters without being obliged to have recourse to the Courts

* The provisions of this Regulation were extended to districts of which the revenues are not permanently settled by Sec. vi., Reg. II., 1806.

The power to sell distrained property is, by Act VII., 1839, vested in the tahsildars. See that Act.

It is enacted by Secs. iii. and ix., Reg. V., 1822, that, until pottahs shall have been granted, or tendered and refused, no property shall be sold for arrears under this Regulation, nor any suits adjudicated for such arrears.

It is provided by Reg. V., 1822, that collectors shall have primary cognizance, by summary process, of all cases which, under this Regulation, were summarily cognizable by Zillah Courts; and they are authorized, by Sec. xv. of that Regulation, to refer such cases to District or Village Punchayets. This rule does not include the cases referred to in Secs. xxxv. and xl.

It is declared in Reg. IV., 1822, that the provisions of this Regulation were not meant to define, limit, infringe, or destroy the actual rights of any description of landholders or tenants, such rights being determinable by judicial investigation only.

The rules of this Regulation are rendered applicable to the recovery of arrears of rent by farmers of any branch of the public revenue—under the same provisions and restrictions for the protection of the sub-renters and under-farmers of such revenue—by Secs. iv. and v., Reg. I., 1826.

of Judicature, and incurring the expense and delay necessarily attending a law process for the recovery of arrear of rents or revenues; and it being at the same time expedient that under-farmers and ryots should be protected from the oppressive exercise of such power, the Governor in Council has for that purpose passed the following rules:—

What persons may distrain and what property shall be liable to distraint.

II. Proprietors of land, and farmers of land holding farms immediately from Government, shall have the power to distrain, without sending previous notice to any Court of Judicature, or to any public officer, the crops and products of the land, with the cattle and other personal property wherever found (as hereafter excepted) belonging to their under-renters, tenants, and ryots, for arrears of rent or revenue, and to cause the said property to be sold for the discharge of such arrears. Under-farmers farming lands from proprietors of land shall have the same power to distrain the property of their under-farmers, tenants, or ryots, to enable them to enforce payment of arrears of rents and revenue. Landholders and farmers of land shall exercise the powers hereby vested in them under the following rules and restrictions.

See Sec. iii., Reg. V., 1822.

What property shall be exempted from distraint.

The Government no longer provides investments.

III. Proprietors and farmers of land shall not distrain nor sell the lands, houses, or other real property of their under-farmers, tenants, and ryots, [*or goods or money belonging to Government in the hands of weavers, manufacturers, or other persons employed in the provision of their investment,*] or the loom thread, or unwrought silk, or materials of manufacture of weavers or manufacturers, or the tools of tradesmen or labourers, being under-farmers, tenants, or ryots. Where distress may be levied contrary to this rule, the defaulters shall be discharged of the arrear for which such distress may have been levied; the distrained property shall be restored to them, or the value thereof made good by the distrainers, where it may have been damaged or injured, or may not be forthcoming; and distrainers shall further pay damages adequate to the loss sustained in consequence of such attachment or sale, with costs of suit.

Penalty.

What property shall not be distrained if other sufficient property can be attached.

IV. The ploughs and implements of husbandry, the cattle actually trained to the plough, and the seed-grain of under-farmers, tenants, or ryots, shall not be distrained for arrears of rent or revenue, so long as other property may be forthcoming equal to the discharge of such arrear; distrainers deviating from this rule shall be punished by an award, to the party aggrieved, of damages adequate to the injury sustained, with costs of suit.

Under-tenants to be considered as defaulters for any arrear of rent withheld beyond the day on which it may become payable.

V. *First.* Where arrears of rent or revenue may be withheld beyond the day on which they fall due according to the kistbundy or other engagement, or (where no written agreement may exist) beyond the time when the rent or revenue became payable agreeably to local usage, such under-farmers, tenants, or ryots so withholding rents or revenues, shall be held to be defaulters.

Defaulters for such arrear liable to distress.

Second. Where the arrears may not be paid on demand, the defaulters shall be liable to immediate distress, notwithstanding the amount may or may not have been demanded of the surety.

Tenant to give notice to his surety.

Third. Where distrainers may proceed to levy distress from an under-tenant (who has given security) without having previously demanded the

arrear from the surety, the tenant shall give notice of the distress to his own surety, so as to enable him to discharge the arrear before the sale of the property attached; it shall be further competent to the distrainer to give notice to the surety requiring him to make good the arrear.

Distrainer may give notice to the surety and come on him for the arrear.

Fourth. It shall be at the option of distrainers either to distrain the property of the defaulter, or of the surety, or of both; provided the whole distress do not exceed the amount of the arrear.

Optional for the distrainer to distrain the property of the surety.

Fifth. Distress shall not be levied on the property of the surety until the arrear shall have been demanded from the defaulter, unless the defaulter may have absconded, or be otherwise not forthcoming; in which case, and in the event of the money not being paid by the surety on demand, his property shall be liable to distress in the same manner as if the defaulter had been present and served with the demand in the first instance.

Provided the demand be first made on the defaulter where forthcoming.

VI. Where property may be distrained and sold for arrears of rent, and where it may be made to appear upon trial that no arrear was due, the distrainer shall be made to return the property to the owner, or to make good to him the value thereof, if it should have been sold, damaged, injured or destroyed, or should not be forthcoming; and shall moreover pay to the party injured, as damages, a sum of money equal to the value of such property, with costs of suit.

Penalty for attaching property if no arrear be due.

VII. Where defaulters may tender the arrear demanded, in the presence of two credible witnesses, to the persons deputed to attach their property, such persons shall receive the arrear, and shall not proceed to the attachment.

Attachment not competent on tender of the arrear demanded.

VIII. *First.* Distrainers shall furnish to the persons employed to attach the property of defaulters demands in writing and signed with their names, specifying the amount of the arrear for which the attachment may be issued, and the date on which the arrear fell due. The persons so deputed shall produce the writing as authority for making the attachment; and on the day on which the property may be attached shall deliver a copy of such writing to the defaulter, indorsing thereon a list or inventory of the property attached, and the name of the place where it may be lodged or kept.

Distrainers to furnish the person distraining with a writing.

What it is to contain.

Defaulters to be served with a copy.

Second. The writing shall further set forth the intention of the distrainer to bring the attached property to immediate public sale unless the amount and expenses of the attachment be previously discharged.

Intention of sale shall be set forth.

Third. Where defaulters may be absent, a copy of the writing, with the indorsement, shall be fixed or left at his usual place of residence before the expiration of the third day, calculating from the day of the attachment.

Writing how to be served where the defaulter is absent.

Fourth. Where defaulters on receiving notice may neglect to pay the amount due, or to give satisfactory assurance or security to the distrainer for early payment, or where defaulters may have absconded or may be otherwise not forthcoming, so that the notice cannot be served upon them, the distrainer shall in either case transmit an inventory of such portion of the property attached as can be brought to immediate sale, to the nearest *cauzy or other* public officer expressly empowered to sell distrained pro-

Consequence of the defaulter's neglecting to pay after notice of absenting himself.

Modified by Sec. IV., Reg. V., 1822, and Act VII., 1839.

Modified by Sec. iv., Reg. V., 1822, and Act VII., 1839.

perty, with a written demand that the property may be publicly sold for the discharge of the arrear due.

What an application to the officer distraining shall contain.

Fifth. The amount of the property shall be specified in the application to the *cauzy or other* officer, together with the place where the property may be in attachment, and (if it be the intention of the distrainer to remove it) the place to which the removal will be made.

Penalty.

Sixth. Where persons vested with the powers of distraint may cause property to be attached without furnishing the agents deputed for that purpose with the writing above mentioned; or where such agents, having been furnished with the writing, may omit to deliver a copy of it with the indorsement to the defaulter, or to leave, in the event of the defaulter's absence, such copy at his usual place of residence within the limited time, the distrainer shall not be entitled to recover the arrear for which the distress may have been levied, but he shall restore the property to the defaulter, or the value of it, if it shall have been sold, damaged, injured, or destroyed or shall not be forthcoming, and shall moreover pay costs of suit.

On a tender of the arrear and expenses previous to the day of sale, attachment to be withdrawn.

IX. Where defaulters may tender payment of the arrear demanded in the presence of two credible witnesses, after their property may have been attached, and prior to the day fixed for sale, together with payment of the necessary expenses attending the attachment, the distrainer shall receive the amount of such arrear and expenses immediately upon the same being tendered, and shall forthwith release the property. In case of any dispute respecting the expenses of the attachment, it shall be determined by the *cauzy or other* authorized persons of the district or place in which the distress may have been levied. The *Courts of Adawlut* shall, on complaint, punish distrainers acting contrary to this regulation, by damages to be paid to the party injured, with costs of suit.

Penalty.

Property distrained not to be carried out of the limits of the estate.

X. Distrainers shall not drive or convey distrained cattle or other property out of the limits of the estate in which it may have been attached; distrainers shall either leave the property upon the premises in the charge of proper persons, or drive or convey it with due care to a proper place as near as possible to the premises within the limits of the estate.

Distrained crops when to be reaped and where stored.

XI. Distrainers attaching the crops or ungathered products of the land belonging to their under-farmers, ryots, or others paying revenue through them, shall cause such crops or products to be reaped or gathered in due season, and shall store the same in proper houses or granaries upon the premises, or (if no such place be on the premises) according to the usage of the country, as near thereto as possible within the limits of the estate. The expense of reaping, or gathering, and storing such crops or products, shall be defrayed by the owner upon his redeeming the property, or from the proceeds of the sale in the event of its being sold.

Distrained cattle or goods not to be used.

XII. Distrainers shall not work the bullocks or cattle, or make use of the goods or effects distrained; they shall provide the necessary food for the cattle or live stock, the expense attending which shall be defrayed by the owner upon his redeeming the property, or from the proceeds of the sale in the event of its being sold.

Distrainer responsible for neglect in respect to the property distrained.

XIII. Where property distrained may be stolen or lost, or damaged or destroyed, while in the keeping of the distrainer, by reason of his not having taken the necessary precautions for the due preservation of it, the loss or damage shall be made good to the owner by the distrainer.

Distress to be proportionate to the arrear.

Penalty

XIV. The distress levied shall not be excessive; that is to say, the property distrained shall be, as nearly as possible, proportionate to the amount of the arrear. Where persons vested with the powers of distraint may attach property the value of which may be disproportionate to the arrear, and where it may afterwards be proved that other property of less value, for the liquidation of such arrear, might have been distrained, the *Court of Adawlut* shall award to the owner damages according to the circumstances of the case, with costs of suit.

Distraints to be made between sunrise and sunset.

Penalty.

XV. Attachments shall be made after sunrise and before sunset, and not otherwise. Where persons vested with the power of distraint may seize, or attempt to seize, the property of defaulters after sunset and before sunrise, for the discharge of arrears of rent or revenue, such distrainers shall not be entitled to recover the arrear, but (if the property should have been distrained) it shall be restored to the defaulter, or the value of it (if it should have been sold, damaged, or destroyed, or should not be forthcoming), with costs of suit.

Transfer of property to prevent distraint invalid.

Penalty.

XVI. Where under-farmers or ryots may make a fraudulent conveyance of property, to prevent the attachment of it for arrears, the *Court of Adawlut*, upon proof thereof, shall cause the property to be delivered up to the distrainer, and compel the person to whom such transfer or conveyance may have been made to pay to the distrainer damages equal to the value of one-half the property, with costs of suit.

Further penalties for resistance to attachment.

Offender liable to damages equal to twice the amount, and the property once taken recoverable wherever found.

And breaches of the peace so committed to be prosecuted criminally.

Claims to property distrained and sold to be preferred to the *Court of Adawlut*.

How to be judged.

XVII. Where under-farmers or ryots may resist, or cause to be resisted, the attachment of property for arrears of rent or revenue in the mode prescribed by the regulations, so as to prevent the attachment from taking place, or may forcibly or clandestinely take away such property after it may have been attached, such persons shall, on proof before the *Court of Adawlut*, be made liable to damages to the distrainer, equal to twice the amount of the property rescued from attachment, and the property so taken away shall be liable to be attached again by the distrainer wherever it may be found; such under-farmers and ryots, as well as all persons concerned in resisting the attachment, shall, moreover, be liable to be apprehended and prosecuted before the criminal courts for any breach of the peace committed by them in such resistance to the attachment, and the police officers, on information of such resistance, shall repair to the spot, and take measures, as well to apprehend and send to the magistrate the persons who may appear to have broken the peace, as to support distrainers in the due exercise of the legal powers vested in them. Where persons not being defaulters, or responsible for defaulters, may claim a right to the property distrained, and the distrainer may, notwithstanding, cause the same to be sold, the claimants, on proof of such right in the *Court of Adawlut*, and in the event of the distrainer being unable to prove responsibility for the arrear of rent or revenue, on account of which the

property may have been sold, shall recover from the distrainer the full value of such property, with costs and damages, according to the circumstances of the case. But claims to crops upon the ground, or to gathered product of the ground attached, in the possession of the defaulter, whether founded upon a previous sale, mortgage, or otherwise, shall not bar the prior claim of rent or revenue due from the ground upon which such crop or product may have been grown, it being the undoubted right of the owner of the land, or his representative, to consider the produce of it mortgaged to him for the rent of the land in the first instance, and in default of his rent being paid as engaged for (or determinable by local rates and usage where there may be no specific engagement), to distrain and sell such part of the product as may be necessary to make good the arrear of rent or revenue due to him.

Penalty for persons not being the owners forcibly or clandestinely taking away attached property.

XVIII. Where persons not being owners may be convicted of forcibly or clandestinely taking away property once distrained, the *Court of Adawlut*, upon proof thereof, shall cause such persons to be imprisoned, until they restore the property, or make good the value of it to the distrainer, and, moreover, to pay to him, as damages, a sum of money equal to the value of such property, with costs of suit.

What places distrainers may force open.

XIX. *First.* Distrainers shall have power to force open any stable, cowhouse, golah, granary, or other building, to enter any dwelling-house, the outer door of which may be open (excepting the apartments in such dwelling-house appropriated for the zenana, or residence of women), and to break open the door of any room in such dwelling-house, for the purpose of attaching property belonging to a defaulter and lodged therein.

Powers to a distrainer as to forcing open doors in presence of a police officer.

Second. Where distrainers may have reason to suppose that the property of a defaulter is lodged within a dwelling-house, the outer door of which may be shut, or within any apartments appropriated to women, which by the usage of the country are considered private, such distrainers shall represent the same to the police *darogha* (within whose jurisdiction the house may be situated), and on such representation, the police *darogha* shall send a police officer to the spot, in the presence of whom distrainers may force open the outer door of such dwelling-house, in like manner as they may break open the door of any room within a house, except the zenana; distrainers may also, in the presence of the police officer, after due notice given for the removal of women within a zenana, and after furnishing means for their removal in a suitable manner (if they be women of rank, who according to the customs of the country cannot appear in public), enter the zenana apartments for the purpose of attaching the defaulter's property deposited therein; but such property, if found, shall be immediately removed from such apartments, after which they shall be left free to the former occupants; and nothing in this regulation shall be understood to authorize a distrainer or his agent to force open the door of a dwelling-house, or to enter the apartments of women which by the usage of the country are considered private, in any other mode than is herein prescribed.

See Sec III., Reg XI., 1816.

Penalty.

Third. Persons entering the apartments of women, or forcing open the outer door of dwelling-houses, contrary to the provisions of this regulation, shall be imprisoned for six months; the distrainer shall not recover the

arrear for which the attachment may have been issued, but he shall restore to the defaulter any property which may have been attached, or pay the value of it, if it shall have been sold, damaged, or destroyed, or shall not be forthcoming; and the court shall further award against such distrainer heavy damages, with costs of suit; and where persons may enter dwelling-houses or break open stables, cowhouses, golahs, granaries, or other buildings not occupied by, or in the possession of defaulters, to distrain property belonging to them, and no such property shall be found therein, the distrainer shall be liable to prosecution by the occupant or possessor for entering such house, or breaking open such stable or other building, and the court shall award damages according to the circumstances of the case, with all costs of suit.

Police *darogha* shall furnish an officer to be present at attachments.

XX. Where persons authorized to distrain property for arrears of rent or revenue may apply to the police *dárogha* to depute a police officer to be present at the time of making the attachment, with a view to prevent resistance or other breach of the peace, the police *darogha* shall (as far as may be in his power) comply with such applications, and the police officers so deputed shall use every means in their power to prevent resistance or other breach of the peace; in such cases the police officers shall also give due attention to the whole conduct and proceedings of the distrainer, so as to be able to give evidence thereupon, if afterwards required.

See Sec. iii., Reg. XI., 1816.

Rules regarding the sale of property.

XXI. At the expiration of the fifth day, and before the expiration of the eighth day, calculating from the day following the day on which the attachment of the property of a defaulter may have taken place; or (if the property attached should consist of crops or other ungathered products of the earth) after the expiration of the fifth day, and before the expiration of the eighth day, commencing from the day following the day on which such crops or products may have been stored, distrainers shall apply to the *cauzy of the district or place, being a commissioner of lawsuits or other* authorized persons, to have the same appraised and sold. Upon receipt of such application, the commissioner shall proceed in the following manner:—he shall fix up on the outer door of his house, and at the place at which he may determine to dispose of the property, a list of the property attached, with a notice, which shall specify—*First.* The place at which the property is to be sold, which shall be on the spot where it may be lodged by the distrainer, or at the nearest market, bazar, or haut, or any place of public resort, where the officer may be of opinion that it is likely to sell to the best advantage. *Secondly.* The day on which the sale is to take place; he shall fix as early a day for this purpose as may be compatible with the regular appraisement of the property and the publication of the intended sale of it, which is to be made by beat of drum on one market-day at the least before the market-day on which the sale is to take place, as well as on the morning of the day of sale, which shall in no instance take place before the expiration of five complete days after the attachment, exclusively of the day on which the attachment may have been made. The same rule shall be observed with respect to the sale of ungathered products, after the distrainer may have gathered and stored them, which products shall not be sold until publication may have been made. *Thirdly.* The hour of the day when the sale is to be made (which

Application to be made to the *cauzy or other* person warranted.

Public notice to be given, of what property is to be sold.

Of the place at which the property is to be sold.

The day of sale.

The hour at which the sale is to begin.

Modified by Secs. iv. and v., Reg. V., 1822, and Act VII., 1839.

shall be during the hours of business, when the greatest number of people may be supposed to assemble), the *cauzy or commissioner* shall nominate two credible persons, competent by their profession, trade, or occupation, to appraise the property; the persons so appointed shall appraise the property according to the current price which the several articles may then bear in the country, and shall deliver the particulars of the appraisement in writing, and attest the same with their signatures, and shall certify in writing at the foot of the paper, that they have appraised the property according to the best of their knowledge and judgment. The *cauzy or commissioner* shall affix his seal to the paper of appraisement, and shall cause it to be stuck up on the outer door of his own house and at the place where the property is to be sold. The property shall be brought to the place of sale on the morning of the day of sale, in order that it may be examined by the persons intending to purchase, unless it shall consist of grain or other products of the earth, the removal of which would be attended with considerable expense; in which case, samples only, indiscriminately taken from each article, shall be brought to the place of sale and exposed for the purpose above mentioned. The property shall be put up to sale in one lot, or in two or more lots, as the *cauzy or commissioner* may think advisable. The property shall be disposed of for the highest price offered for it. Where the property may sell for more than the amount of the arrear, the overplus, after deducting the charges attending the attachment and sale of it, shall be paid to the defaulter. Where the proceeds of the sale may be insufficient for the discharge of the arrear and the expenses attending the attachment and sale, the distrainer shall be at liberty to attach other property belonging to the defaulter, and to cause it to be sold to make good the deficiency. The commissioner shall in every case examine the distrainer's statement of the expenses attending the attachment and sale of property, and shall reject any part appearing to him unreasonable. Where persons vested with the power of distraint may sell or dispose of property attached for arrears of rent or revenue in any other mode than that prescribed by the regulations, such persons shall forfeit the arrear for which the distress may be levied to the defaulter, and shall make good to him the value of the property sold or disposed of, with costs of suit.

Two appraisers shall be nominated.

The paper of appraisement shall be fixed up publicly.

Sale, how to be conducted.

Modified by Secs. iv. and v., Reg. V., 1822, and Act VII., 1839.

Distrainer's statement of expenses to be examined.

Penalty.

XXII. The property shall not be sold for other than ready money, to be paid at the time of sale; and the purchaser shall not be permitted to carry away any part of the property until paid for. Where the purchaser may fail in the payment of the whole or part of the purchase-money within five days, calculating from the day following the sale, the whole of the property, or the part of it which may be unpaid for, shall be resold by the *cauzy or commissioner*, on such day as he may fix, for the best price offered for it; the defaulting purchaser shall forfeit to the distrainer ten per cent. of the amount of the price at which he may have purchased the property so resold, and shall make good to him any loss arising, as well as the expenses incurred on the re-sale. If any profit accrue on the re-sale, it shall be accounted for to the defaulter.

Payment on the purchase of distrained property, how to be made.

Penalty.

XXIII. [Who may be commissioners to sell distrained property.]—*Rescinded in part by Section II., Regulation VI.*, 1816, *and entirely by Section I., Act VII.*, 1839.

Persons interested in the sale disqualified from acting as *commissioners*.

XXIV. Persons vested with the powers of selling distrained property shall not act in cases where they may be parties concerned for arrears due to themselves, or where they may be otherwise interested.

See Sec. vi., Act VII., 1839.

[Commissioners for sale of distrained property not removable but by order of Sudder Adawlut.]—*Superseded by Section III., Act VII.*, 1839.

Penalty of *commissioners* conniving at unfair practices.

XXV. It shall be the duty of *commissioners* for the sale of distrained property to prevent unfair practices, either in the appraisement or sale of such property; and upon proof of their conniving at such practices, the *Court of Adawlut* shall cause them to make good any loss or injury which the party may have sustained thereby, with costs of suit.

Distrainers, appraisers, or *commissioners*, not to purchase the property. Penalty.

XXVI. It shall not be competent to the distrainers, appraisers, or *commissioners* to purchase any part of property distrained, either directly or indirectly. Persons offending against this prohibition shall be made to restore the property to the defaulter, or shall pay the full value thereof in the event of its being damaged or destroyed, or not forthcoming; and shall moreover forfeit the purchase-money, which shall be appropriated to the liquidation of the arrear, and shall pay all costs of suit. Distrainers acting contrary to this prohibition shall, in addition to the above penalties, likewise forfeit the arrear for which the property may have been attached.

Defaulter not competent to purchase.

XXVII. It shall not be competent to the defaulters, nor for persons in their behalf, to bid for or purchase their property distrained.

Persons who, under the name of sureties, farm or tenant lands in the name of others, to be considered the actual ryots or farmers of such lands.

XXVIII. Persons farming or under-farming lands in the name of their children, dependants, or others, or in the names of fictitious persons, and giving themselves as the ostensible sureties for the performance of the agreements, but retaining the actual management of the lands, being in fact themselves the under-farmers or ryots of such lands, shall to all intents and purposes be considered as the under-farmers and ryots of such lands; and their property shall be liable to be distrained and sold for arrears in the same manner as if the engagements of such lands had stood in their own names.

Landholders and farmers of lands prohibited confining or inflicting corporal punishment on defaulters or their sureties.

XXIX. Landholders and farmers of land shall not confine or inflict corporal punishment on under-farmers, tenants, or ryots, or their sureties, for the purpose of enforcing payment of arrears of rent or revenue. Where landholders or farmers may offend against this rule, persons so punished or confined shall be at liberty either to prosecute the offenders for assault or imprisonment in the Criminal Court, or to institute a suit in the *Adawlut of the zillah*, which court shall award damages against such offenders, according to the circumstances of the case, with costs of suit.

Distraint competent to heirs and successors.

Also to managers of disqualified landholders or of undivided estates.

XXX. Upon the death of persons vested with the power of distraint by this regulation, their heirs or successors entitled to the arrears due to them shall have power to distrain the property of the defaulters and their sureties in the cases authorized, for the recovery of the same agreeably to this regulation. Managers of the estates of disqualified landholders, and managers of undivided estates belonging to two or more proprietors (all of whom do not come within the description of disqualified landholders),

shall also have the same powers for the recovery of arrears of rent or revenue as the proprietors of the estates committed to their charge would be entitled to exercise under this regulation, if entrusted with the management of their own estates, subject, however, to the several rules, restrictions, and penalties herein specified.

Rules to be observed in attaching property of persons employed in the *Company's investment* or manufacture of salt.

The duties of salt agent are now performed by the collectors of revenue.

XXXI. Distrainers attaching the property of persons employed *in the Company's investment, or* in the manufacture of salt, shall give notice (as early as possible after making the attachment) *to the commercial resident* or salt agent, or to the native superintendent of the factory to which the defaulter may be attached. In such cases the property shall not be sold until sufficient time may have been given to enable the Company's officer to satisfy the demand previously to the day of sale.

XXXII. [Commission to be drawn by officers empowered to sell distrained property.]—*Superseded by Section V., Act VII.*, 1839.

XXXIII. [What cauzies may sell distrained property.]—*Superseded by Act VII.*, 1839.

Where rents cannot be realized by distress, defaulter may be arrested.

XXXIV. *First.* Zemindars, proprietors, or farmers of land to whom an arrear of rent or revenue may be due from dependent talookdars, or other under-tenants of whatever denomination, which cannot be realized by distraining the personal property of such under-tenant, or of the sureties, shall have power to cause the immediate arrest of such defaulters and sureties in the manner following:—

See Reg. V., 1822, and Act VII., 1839.

Petition to be made to the *judge of Adawlut or commissioner.*

Second. The proprietor or farmer to whom the arrear may be due, or his authorized agent, shall present a petition to the *judge of the Zillah Court*, or, in cases wherein there may be reason to apprehend the immediate elopement of the defaulter or his surety, to the *native commissioner*, setting forth the arrear due from the defaulter, and praying that he and his surety may be taken into custody unless the amount be paid. On the receipt of a petition to this effect by a *native commissioner*, he shall cause such party to be arrested, and unless payment be made of the arrear demanded, shall, within twenty-four hours, cause him to be conveyed to the *judge of the zillah;* the *judge* shall proceed thereupon in like manner as is hereafter provided in the event of the petition being presented to him, and of the party being arrested by his own order. But *native commissioners* shall not detain defaulters or sureties in custody, without sending them to the *judge*, above twenty-four hours, under penalty of being dismissed from office, and made liable to prosecution for false imprisonment; unless the party in arrest may, by a written application, desire the same for the purpose of adjusting the arrear with the party causing the arrest, and unless the latter may assent thereto; in which case, the written acquiescence shall be superscribed or indorsed on the application, with the signature of the party acquiescing, and shall specify the time for which such assent to stay process may have been given.

Process on such petition.

Judge how to act if the petition is presented, when in the first instance.

Third. Where petitions for arrest may be presented in the first instance to the *zillah judge*, he shall receive them, either in or out of *court*, from authorized agents; the *judge* shall issue a dustuck or order for the arrest of such party and bring him before the *court*, unless he pay the arrear

demanded; and if such payment be not made on the dustuck being served, or within twenty-four hours afterwards, the officer charged with the dustuck shall convey the party to the *Zillah Court;* provided, however, that where the party arrested may, by a written application, request a longer time than twenty-four hours to adjust the demand against him, and where the party causing the arrest may, by a written superscription or indorsement on such application, acquiesce therein, the officer charged with the dustuck shall delay the execution accordingly; and where the party at whose instance the dustuck may have been issued may, by a written application, declare himself satisfied and desire the arrest to be withdrawn, it shall be withdrawn accordingly; the officers charged with the dustuck being paid batta, according to the established rate of allowance to persons deputed with revenue process.

Summary inquiry to be made by the *judge*.

Fourth. Where defaulters or their sureties may be brought to the *Zillah Court* under either of the two preceding clauses, the *judge* shall call upon them to answer the demand; where the demand or any part of it may be denied, the *judge* shall enter into a summary inquiry of the merits of the case, by examining the vouchers and accounts of the parties; [*it shall be also competent for the judge to refer the case to the collector of the district for adjustment in causes of this description, which neither themselves nor their registers may be able to try without delay, and which may not be cognizable by the native commissioners acting under their authority.*] Landholders and farmers shall be free to appoint and employ vakeels duly empowered to attend such inquiries before collectors [*or summary inquiries before judges of Adawlut.*]

Or to refer the case to the collector.

Superseded by Sec. ii., Reg. V., 1822.

In what cases the defendant shall be discharged with cost and damages.

And in what cases to be detained.

Fifth. Where such cases may be referred to *collectors* for adjustment, the collectors shall make report to the *judges.* After receiving such reports, or after completing their own inquiries without reference to *collectors, judges* shall discharge the defendants, with full costs and damages, where it may appear that arrears have not been due; but where it may appear that the arrear demanded, or a considerable portion thereof, is justly due from the defendant, he shall be kept in custody until the amount of the arrear, and interest thereon at the rate of one per cent. per mensem, with costs of suit, may be discharged, or until the plaintiff make application to the *court* for the release of the defendant: plaintiffs shall pay to such defendants, whilst in confinement, the same allowance for their subsistence as is fixed for other prisoners in the jail of the Adawlut, not exceeding four annas, nor less than one anna per diem.

Modified and partly superseded by Secs. ii. and xv., Reg. V., 1822.

In what cases the farms or tenures may be attached and arrear collected with interest.

Sixth. Where under-farmers or other under-tenants arrested as above described may not discharge the arrear demanded, and may in consequence be taken in custody to the judge of the Court of Adawlut, the proprietors or farmers of land to whom such arrear may be owing shall have power to attach the farm or other tenure of such defaulters, and to manage the same by their own agents until the rent due, and the further rent which may become due after attachment, with interest upon the whole arrear, at the rate of one per cent. per mensem, may have been liquidated; but in such cases of attachment, proprietors or farmers shall not exact more from the cultivators of the soil, and other descriptions of inferior tenantry whose rents for the current year may have been payable to the defaulters, than the defaulters would have been entitled to receive from them if the attachment had not taken place; and in the event of the defaulters making

good the arrear due from them, with interest at the rate of one per cent. per mensem, at any time within the current year, the attachment shall be withdrawn, and an account rendered to them of the receipts and disbursements during the continuance of such attachment.

Further measures competent to landholders and farmers for security of rents if the arrear be not liquidated within the current year.

Seventh. Where arrears may not be liquidated within the current revenue year, proprietors or farmers of land in which the defaulter's tenure may be included (if such farmer's lease extend beyond the current year) shall have power to make at the commencement of the ensuing year such provision for the future receipt of the rents from the lands tenanted by the defaulters as they may judge proper, consistently with the rights of the other persons concerned. Where defaulters may be holders of other tenures which, by the title-deeds, or by the established usage of the country, are transferable by sale or otherwise, it shall be competent to proprietors or farmers of land to bring such transferable tenure to sale by application to the *Court of Adawlut*, in satisfaction of the arrear of rent or revenue, and the purchaser shall become the tenant of such transferable tenure; where defaulters may be leaseholders or other tenants having right of occupancy only during payment of certain rents, without right of property or possession, the proprietors of whom such tenures may be held, or the farmers or other persons to whom such proprietors may have leased or committed their rights, shall have the right of ousting the defaulting tenants from the tenure. In the several cases enumerated in this clause (with the exception of that where a sale of landed property may be desired) proprietors and farmers of land shall be free to exercise the powers appertaining to them, without previous application to the Courts of Judicature, but they shall be responsible for all acts done by them or by their agents which may exceed those powers and infringe the rights of undertenants.

Competent to proprietors to summon the attendance of their tenants in certain cases.

Eighth. Provided that no part of this regulation shall be construed to deprive zemindars and other landholders of the power of summoning, and, if necessary, of compelling the attendance of their tenants for the adjustment of their rents, or of measuring lands within their respective estates which may be liable to measurement under the conditions upon which such lands may have been leased or held, or for any other lawful purpose; for the regular exercise of such rights and powers, landholders shall not be compellable to make previous application to the Courts of Judicature, and persons opposing them therein will, on proof *in the Court of Adawlut*, be liable to full damages and costs, besides being subject to penalty for breach of the peace in the Criminal Courts; but landholders or their agents shall be answerable for abuse of the powers hereby vested in them, and on proof thereof, by the party aggrieved, in the *Courts of Adawlut*, shall be liable to full costs and damages, besides a fine to Government, according to the circumstances of the case.

Persons confined under the fifth clause of the preceding section may institute a suit in the Court of Adawlut.

XXXV. Persons confined under the fifth clause of the preceding section, and desirous of bringing the demand upon them to a regular judicial investigation and decision in the Court of Adawlut, shall be free to institute suits against the landholders or farmers at whose instance they may have been so confined. For this purpose, in cases where the amount of arrear denied by such persons may be found upon trial not to have been due, judgment for full costs and damages against the party claiming such

amount shall be given, with interest at the rate of one per cent. per mensem upon the amount of all moneys paid in discharge of the demand.

Claims rejected on the summary inquiry may be sued for in the Court of Adawlut.

XXXVI. Proprietors and farmers of land whose claims to arrears of rent or revenue may be rejected by the *zillah judge*, on the summary inquiry provided by this regulation, shall also be free to institute regular suits in the Court of Adawlut for the recovery thereof; and where, on trial, the amount claimed by proprietors or farmers may be found to have been due, when judgment on the summary process was given against them in the first instance, they shall be entitled to recover the moneys paid by them for costs, damages, or interest, under such judgment, and the *Zillah* Court shall further give a decree for the arrears of rent or revenue due to such proprietors or farmers, with interest at the rate of one per cent. per mensem, and full costs incurred, as well on the summary inquiry as on the regular suit.

See Sec. ix., Reg. V., 1822.

Summary suits under Sec. XXXIV. not appealable.

XXXVII. In respect that persons considering themselves aggrieved by the summary suits, as authorized under this regulation, can have remedy by a regular suit in the *Zillah* Court of Adawlut, no appeal shall lie to the *Provincial* Court on such summary judgment.

Modified by Clause 2, Sec. ii. and Sec. xvi., Reg. V., 1822.

Rules in the preceding sections applicable to certain other cases.

XXXVIII. The rules laid down in the preceding sections, for the recovery of arrears of rent or revenue due to proprietors and farmers of land, shall be applicable to the managers of estates of disqualified landholders and of joint undivided estates, as well as to collectors or other public officers holding lands in attachment or making a khas collection on the part of Government, where no settlement may have been made with any proprietor or farmer.

Principals responsible for the acts of their agents.

XXXIX. Where gomastahs, agents, servants, or officers of persons vested with the power of distraint, may attach, or cause to be sold, the property of under-farmers or ryots, or of their sureties, or may do any act in the attachment or sale of such property contrary to this regulation, the parties aggrieved shall have remedy against the principals for such illegal attachment, sale, or act, whether the same may have taken place or been done by the orders or with the knowledge of such principals or not; provided that nothing contained in this section shall extend to subject distrainers to imprisonment, in the event of persons deputed by them to attach property, entering the zenana or apartments of women, or breaking open a dwelling-house, in any other manner than is provided in this regulation, unless it may be proved that such acts had been done by the order, or with the consent or knowledge, of such distrainer.

Action competent to persons deeming themselves aggrieved.

XL. Nothing contained in this regulation shall be construed to prevent persons whose property may have been distrained or sold from instituting suits in the *Zillah* Court of Adawlut against the distrainer for injury sustained; nor to prevent landholders, or farmers of land, or other persons vested with the power of distraint, from prosecuting in the *Zillah* Court of Adawlut for arrears due to them from under-farmers, or ryots, or their sureties. Where they may prefer the mode of procedure in the *Zillah*

See Sec. ix., Reg V, 1822.

Court, to that of distraining personal property for the recovery of arrears, proprietors or farmers of land shall be free to do so.

Suits instituted under this regulation to be determined before all others.

XLI. Suits instituted under this regulation shall be heard and determined previously to any other suits which may be depending at the time of such institution.

Powers of restraint may be delegated.

XLII. Zemindars and other landholders and farmers of land shall be free to delegate to their naibs, gomastahs, and other agents employed in the collection of their rents and revenues, the power of distraining, in their behalf, in the mode prescribed by this regulation; and the naibs, gomastahs, and other agents to whom such power may be delegated by their principals, shall be free to proceed for the recovery of arrears of rent and revenue due to their constituents in the same manner as the latter are authorized to proceed; subject, however, to their responsibility, in addition to that of their principals, for deviation from the regulations; but neither the landholders and farmers of land themselves nor their agents shall be liable to the penalties prescribed for a deviation from the regulations relative to the distraining for land-rents, unless such deviation may appear to have been wilful and intentional, or to have proceeded from gross neglect and inattention to the rules prescribed; where no such wilful deviation or neglect may appear, satisfaction shall be decreed to the party aggrieved for the actual damage only sustained by reason of deviation from the prescribed process, and judgment shall not be given for such damages where distrainers may shew that sufficient amends to the party injured had been tendered, as soon as the irregularity on the proceedings had been discovered, or at any time before the action for damages had been brought, and that such tender had been refused.

Abuse of the powers of distraint how punishable.

A.D. 1802. REGULATION XXIX.

A REGULATION* *for Establishing the Office of Kurnum, and Defining the Duties of the said Office, in the British Territories subject to the Presidency of Fort St. George:* PASSED *by the Governor in Council of Fort St. George, on the* 13*th of July*, 1802.

THE revenue payable to Government from the estates of proprietors of land being fixed for ever, and Courts of Judicature being established for

* It is declared by Sec. vii., Reg. II., 1806, that the provisions of Secs. i. to x. and xiii. to xvi. of this Regulation shall not extend to districts of which the revenues are not permanently settled. Rules for the duties of kurnums in such districts are enacted in Sec. vii. of that Regulation, in addition to those contained in Secs. xi., xii., xvii., and xviii. of this Regulation. Further duties are assigned to kurnums in Regs. IV., V., and XI., 1816.

protection of the said proprietors in the enjoyment of their lands, free from all other demands than those of the permanent assessment on the part of Government; and the practice of soliciting and of granting occasional remissions of the public revenue in consequence of temporary calamities having been entirely abrogated, the causes which may heretofore have induced possessors and farmers of land to conceal the actual produce of their estates and farms have no longer any direct object; Government has in consequence deemed it to be expedient to abolish the several offices heretofore maintained for the purpose of detecting or of preventing such concealment, with the exception of the office of kurnum. But the office of kurnum being still of great importance to the preservation of the rights and property of the people, it is expedient to provide for the continuance of that office on an efficient establishment, for the purpose of facilitating the decision of suits in the Courts of Judicature, of preventing the diminution of the fixed revenue of the Government, and of securing individual persons from injustice, by enabling the public officers of Government and the Courts of Judicature to procure authentic information and accounts. In conformity, therefore, to the ancient usages of the country, the following rules have been enacted for the establishment of the office of kurnum:—

The office of kurnum to be established in every village the revenues of which may amount to four hundred pagodas per annum or upwards

In villages yielding less, one kurnum may superintend the office in two or more

II. An office of record, under a kurnum, shall be established in each village of a district, where the land revenue may have been permanently assessed on the lands; provided the revenues arising from such village, inclusively of charges, may amount to the annual sum of four hundred pagodas or upwards. But in villages where the annual revenue may be less than the said sum of four hundred pagodas, it shall be competent for one kurnum to superintend and discharge the duties of the kurnum's office in two or more villages.

Nomination to the office vested in the proprietors of land.

III. The nomination of persons to the office of kurnum shall be in the actual proprietors of land.

Persons at present holding the office confirmed therein.

Where there is no such office, a person to be appointed within six months after the permanent assessment of the land-tax

IV. In villages where persons appointed by the usage of the country to the office of kurnum actually hold at this time the office of kurnum, such persons shall continue to hold their offices respectively. In villages where persons may not now actually hold the office of kurnum, proper persons shall be appointed to that office within six months next after the permanent assessment of the land revenue may be fixed on each estate or zemindary respectively.

Kurnums, how dismissible

V. Kurnums shall not be dismissed from their offices except by the sentence of a Court of Judicature.

Vacancies, to whom to be reported and how soon to be supplied

VI. Where vacancies may occur in the office of kurnum, either by death or dismission, the landholder concerned shall report the event to the collector, and shall within thirty days nominate a proper person to fill the vacancy, acquainting the collector with the name of such person.

Office of kurnum hereditary.

Exception to the rule.

VII In filling vacancies in the office of the kurnum, the heirs of the preceding kurnum shall be chosen by the landholders concerned, except in cases of incapacity, on proof of which before the *judge of the zillah*, the

said landholders shall be free to exercise their discretion in the nomination of persons to fill vacancies.

VIII. Proprietors of land shall deposit in the Adawlut of the zillah, in the head cutcherry of the collector, and in the principal cutcherry of each zemindary or estate, authentic lists containing the names of the kurnums on their respective estates, and the names of the villages of which the said kurnums may have been appointed to keep the accounts.

List of the kurnums, and of the villages under each, to be furnished by the proprietors, and where to be deposited.

IX. It shall be competent for the Board of Revenue at the Presidency to authorize, through the channel of the collectors, the proprietors of land to reduce the number of kurnums in all cases where such reductions may appear to be advisable to the said Board.

The Board of Revenue may reduce the number of kurnums, if advisable.

X. Proprietors of land neglecting to appoint kurnums shall be liable to fine for such neglect, at the discretion of the Adawlut of the zillah.

Proprietors of land neglecting to appoint kurnums liable to be fined.

XI. *First.* Kurnums duly appointed to their offices shall keep complete registers of the extent of the lands in each village, specifying the boundaries and landmarks, and shewing their appropriation: viz. arable, cultivated and uncultivated, pasture, occupied for houses, gardens, rivers, tanks, springs or wells, waste in hills, jungle, or rocks.

Kurnums to keep registers of the extent of the lands in each village, shewing their appropriation.

Second. The said registers shall specify the extent and description of land in each village exempt from paying revenue to Government at the time when the permanent assessment was fixed, the purposes to which the exempted lands are appropriated, and the names of the holders of such lands.

What such registers are to specify in regard to lands exempted from the payment of revenue to Government by established usage.

Third. The said registers shall specify the lands in each village exempted by grants or sunnuds from paying revenue to Government, the purposes for which such lands were granted, the condition of the grant, and the names of the holders.

And in regard to lands exempted from the payment of revenue by grants or sunnuds.

Fourth. Kurnums shall report to the proprietors of lands the death of all incumbents on lands exempted from the payment of revenue to Government.

Death of incumbents on such lands, to whom to be reported.

Fifth. Kurnums shall be present at the estimation of the crop, at the beating out, and at the measuring of the grain.

Duty of the kurnum in regard to the crop

Sixth. Kurnums shall keep true accounts of the gross produce of all lands, whether paying revenue to Government or not; where the produce of such lands may be shared between the proprietors and the cultivators, kurnums shall also enter in their registers the quantity of grain so divided, as well as the rates of division.

Gross produce of all lands, with particulars as to its division, to be registered.

Seventh. Kurnums shall enter in their registers the rates and amount of all fees and marahs appropriated to the officers and servants of the villages, specifying whether such fees or marahs are payable from the gross produce of the entire lands, from the proprietor's share, or from the ryot's share.

Amount of fees and marahs paid in a village to be also registered, and in what form.

Eighth. Where lands may be liable to pay money rents, kurnums shall keep registers of the extent of the land cultivated, and of the rates and amount of the money rents.

Kurnums to keep registers of lands paying a money rent what such registers are to contain.

Ninth. Kurnums shall keep registers of the land cultivated in gardens, and of the rates and amount of the division of the produce of such lands, when the produce may be divided in kind.

What the registers of lands cultivated in gardens are to contain.

All quit-rents and ready-money payments to be registered

Also the price current of all grain.

Tenth. Kurnums shall keep registers of the quit-rent and ready-money payments collected in each village.

Eleventh. Kurnums shall keep monthly registers of the price of all kinds of grain.

Kurnums to register all passengers reported by the village watcher

Twelfth. Kurnums shall keep registers of strangers passing or repassing as reported to him by the village watcher, and such registers shall at all times be open to the inspection of the officers of police.

Rules for keeping entire the accounts and records of the office of kurnum.

Thirteenth. Kurnums shall keep the accounts which are to exhibit the actual revenue and charges of the village, and the records of their offices entire; and shall not carry such accounts or records out of their respective villages, unless required to do so by competent authority. Kurnums secreting the accounts or records of their offices, or transporting them beyond their respective villages, except by due authority, shall be liable to fine and imprisonment until the accounts and records may be produced; but proprietors or farmers of land shall at all times have free access to the accounts and records, with power to take copies of them.

Kurnums to produce their records whenever called upon by the proprietor of land, the collector, or the Adawlut

XII. Kurnums shall produce, whenever required by the proprietor or farmer of the lands, by the collector, or by the Adawlut of the zillah, the records and accounts relating to the lands, produce, revenue, and charges of their villages respectively.

On what occasions the collectors or other public officers may demand from kurnums their accounts or records

XIII. Collectors shall not demand from kurnums their accounts or records for any other purpose than that of assessing the public revenue upon the portions of estates which it may be necessary to divide, in consequence of attachment for arrears of revenue, or in pursuance of a decree of a Court of Judicature, or for the accommodation of the joint proprietors of lands; provided that this section shall not be construed to preclude collectors or other public officers from demanding from kurnums the information required for the due administration of the revenues of such lands as may escheat to Government or remain khas after attachment for arrears of revenue.

Power given to the courts to prohibit the collectors, in certain cases, from making such demands

XIV. On complaints by proprietors of land, the Adawluts of the several zillahs shall have authority to make orders to prohibit the collectors respectively from demanding the attendance of the kurnums, the accounts, or information; and to levy fines from such collectors for persisting to demand their attendance, accounts, or information, for any other purposes than those authorized by this regulation.

Forms to be observed in requiring the attendance of the kurnums.

XV. Where collectors or Courts of Judicature may have occasion to require the attendance of a kurnum, a notice shall be delivered to the said kurnum, specifying the time and place of attendance, the nature of the accounts required, and the persons before whom such accounts shall be examined.

Punishment attached to a refusal or wilful delay on the part of the kurnums.

XVI. Where kurnums may refuse to comply, or may unreasonably delay to comply with such notice duly communicated, it shall be competent for the Adawlut to punish such kurnums by fine or imprisonment, until the accounts or information required be produced.

See Acts V., 1840, and VII., 1841.

XVII. Kurnums shall be compellable to *swear* to the truth of such accounts or information as they may furnish before a Court of Judicature; and it shall be competent for the court to grant a commission for the purpose of receiving the depositions of such kurnums as it may be necessary to examine at a distance from the court; provided that the said commission shall contain the name of each kurnum to be examined on *oath*.

Kurnums compellable to *swear* to the accounts or information they may furnish.

XVIII. Where kurnums may deliver false or fabricated, or mutilated accounts or information, after having been duly *sworn*, the judge of the Adawlut shall commit such kurnums to be tried for the crime of perjury before the *Court of Circuit*.

How punishable if such accounts or information be false.

XIX. Proprietors of land or other persons associating themselves with kurnums for the purpose of producing or procuring false or fabricated, or mutilated accounts or information, shall also be committed by the judge of the Adawlut for trial before the *Court of Circuit* for subornation of perjury.

Proprietors of land conniving thereat, how to be proceeded against

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A.D. 1802. REGULATION XXX.

[THE RULES OF THE BENGAL CODE RESPECTING POTTAHS ARE IN SECTIONS LVI. TO LXI., REGULATION VIII., 1793.]

A REGULATION* *prescribing Pottahs to be used between Landholders and their Under-farmers, Tenants, and Ryots, in the British Territories subject to the Presidency of Fort St. George:* PASSED *by the Governor in Council of Fort St. George, on the* 13*th of July,* 1802.

IT being advisable that the existing indefinite mode of dividing the produce of the earth, and of accounting for the customary ready-money revenue, should be abolished, to the end that cultivators and under-tenants of land may have the benefit and protection of determinate agreements in

* It is provided by Sec. ii., Reg. V., 1822, that Collectors shall have primary cognizance, by summary process, of all cases which, under this Regulation, were summarily cognizable by Zillah Courts; and they are authorized by Sec. xv. of that Regulation to refer such cases to District or Village Punchayets.

It is enacted by Secs. iii. and ix., Reg. V., 1822, that, until pottahs shall have been granted, or tendered and refused, no property shall be sold for arrears, under Reg. XXVIII., 1802, nor any suits adjudicated for such arrears.

It is declared in Reg. IV., 1822, that the provisions of this Regulation were not meant to define, limit, infringe, or destroy the actual rights of any description of landholders or tenants, such rights being determinable by judicial investigation only.

their dealings with superior landholders and farmers of land, and it being necessary to the security and comfort of cultivators and under-tenants that the terms of such agreements should be made specific, to the end that cultivators and under-tenants, being sensible of the advantage of such security, may have recourse to them for the prevention of disputes; wherefore the following rules have been enacted for the execution of pottahs between proprietors or farmers of land, or aumils, and under-tenants, under-farmers, or ryots.

Nature of the agreement to be entered into by the proprietors with the cultivators of land, and mutual engagements to be exchanged, denominated "pottah" and "mochulka."

II. Proprietors and farmers of land shall enter into agreements with the inhabitants and cultivators of land, on the terms on which they respectively occupy such lands; and the contracting parties shall be mutually bound to exchange their engagements in writing; the engagements of the proprietor being denominated "pottah," and the engagement of the ryot being denominated "mochulka."

Pottahs and mochulkas to be exchanged within a given time.

III. Pottahs and mochulkas shall be exchanged within six months, calculating from the time of the permanent assessment being fixed.

They may be of four kinds.

IV. *First.* Pottahs and mochulkas may be of four kinds: 1st, for the rent of villages in gross sums of money; 2ndly, for a division of the produce of land; 3rdly, for lands on which a money rent is assessed; 4thly, for lands charged with a grain rent.

Date of the month and year, with the names and situation of the parties, to be contained in all pottahs or mochulkas.

Second. Pottahs and mochulkas shall contain the date of the month, and the year on which they may be executed; the names and situation of the contracting parties.

Form of pottahs for village rents.

Third. Pottahs for village rents shall contain the name of the village, the extent of the lands therein, the amount of the rent per annum, the period of the kists, which proprietors or farmers of land shall be compellable to adjust according to the time of reaping or of selling the produce of the land, and the coin in which the rent is to be paid.

Form of pottahs where there is a division of produce.

Fourth. Pottahs for the division of the produce of land shall be drawn according to the form prescribed in clause the third; but in lieu of the money rent, such pottahs shall specify the extent of the land, which the under-tenant, under-farmer, or ryot may engage to cultivate, and the rate of the cultivator's share of the different kinds of grain cultivated and produced.

Form of pottahs for a money rent on lands.

Fifth. Pottahs for lands on which a money rent is assessed shall, in addition to the items described in clause third, specify the rate of assessment on such lands, according to the land measure in use, and the rents on each description of land or grain, as the usage may be.

Form of pottahs for rents in kind.

Sixth. Pottahs for lands charged with a grain rent shall, in addition to the items prescribed by clause third, state the specific quantity of land occupied under this description of rent, the specific quantity of grain to be rendered, and the species of grain.

Pottahs and mochulkas to be registered.

V. Pottahs and mochulkas shall be regularly signed and registered by the kurnum of the village in which the lands engaged for are situated.

Rents of various denominations to be con-

VI. Where the rents or revenues of land, payable either in money or

kind to the proprietor, may have been collected under various denominations, in addition to that of the proprietor's share, such as canongoi and cavelly russooms, or other charges, they shall be consolidated in the pottahs into one specific sum of money or quantity of grain; and in the event of claims being instituted by proprietors of land on engagements in which the rents or revenues may not be so consolidated, such claimants shall be nonsuited, with costs, before the *Adawlut of the zillah*, from and after the expiration of two years subsequently to the time when the permanent assessment of the land revenue may have been fixed.

solidated into one: time prescribed therefor.

VII. Proprietors or farmers of land shall not levy any new assessment or tax on the ryots, under any name or under any pretence; exactions other than those consolidated in the pottah, or otherwise authorized by the Government, shall, upon proof, subject the proprietor or farmer to a penalty equal to three times the amount of each exaction.

See Sec. vii., Reg. V., 1822.

Proprietors or farmers making unauthorized exactions from the ryots, subject to a penalty of three times the amount.

VIII. Under-farmers and cultivators of land shall be free to demand of proprietors or farmers of land pottahs for the descriptions of land they may respectively occupy; and where proprietors or farmers of land may refuse or delay to execute or cause to be executed, pottahs so demanded, such proprietors or farmers of land shall, after the expiration of six months (calculating from the settlement of the permanent land revenue on their estates), be liable to prosecution in the *court*, and shall, on proof of such refusal or delay, be also liable to pay such damages as the *court* shall adjudge to be equal to the trouble and expense incurred by the under-farmers or cultivators in consequence of such refusal or delay.

See Sec. ii., Reg. V., 1822.

Cultivators may demand pottahs of proprietors, and in case of refusal or delay, may sue them for damages.

IX. Where disputes may arise respecting rates of assessment in money or of division in kind, the rates shall be determined according to the rates prevailing in the cultivated lands in the year preceding the assessment of the permanent jummah on such lands; or, where those rates may not be ascertainable, according to the rates established for lands of the same description and quality as those respecting which the dispute may arise.

How the rates of assessment in money, or of division in kind, are to be determined in cases of dispute.

See Sec. viii., Reg. V., 1822.

X. Where under-farmers or ryots may refuse to exchange mutual engagements in writing with proprietors or farmers of land, defining the terms on which such under-farmers or ryots are to hold their lands, and may persist in such refusal for the space of one month after the prescribed pottahs may have been offered in presence of witnesses by the proprietors or farmers of land, such proprietors or farmers of land shall have power to grant the lands of the under-farmers or ryots so refusing to other persons.

Power vested in the proprietors or farmers of land in cases where the ryots shall refuse to accept of pottahs when tendered.

XI. Discharges of rent in money or in kind received by proprietors or farmers of land, over and above the amount or quantity which may have been specified in the mochulka of the persons paying the same, shall be considered to have been extorted; and discharges so taken by extortion shall be repaid, together with a penalty of double the amount of the value, with costs.

Discharges of rent received either in money or kind, over and above what is stated in the mochulka, to be considered as extorted, and to be repaid with a penalty.

XII. Pottahs executed for one year shall be renewable at the expiration of the Fusly, but shall be considered in force until renewed. Unless

Pottahs for one year renewable at the close of it.

Period of time prescribed for the same.

pottahs be renewed within two months after the commencement of the ensuing Fusly, they shall be considered in force and binding on the respective parties throughout the Fusly, provided such delay may not have been produced by the actual refusal of either party to execute the engagement.

Where estates are disposed of for liquidation of arrears of rents, the purchasers to grant new pottahs at the commencement of the ensuing Fusly.

XIII. Where estates or parts of estates may be sold or transferred for the liquidation of arrears of rents or revenues due to Government, such pottahs as may have been granted by the former proprietor shall cease to have effect at the end of the Fusly in which such lands may be sold, and new pottahs shall be issued by the purchasers of such estates from the commencement of the following Fusly.

Receipts to be granted for all payments of rent, and a discharge in full on the whole being paid.

XIV. Under-tenants, under-farmers, and ryots shall be entitled to receipts from proprietors or farmers of land for all discharges made in money or in kind; and where they may have paid the whole rent or revenue, proprietors and farmers of land shall grant to them receipts in full; persons to whom receipts may be refused shall, on proof of the same in the *Adawlut of the zillah*, be entitled to, and shall receive, damages from the party refusing such receipts, to an amount equal to double the sum paid, with costs of suit.

See Sec. ii., Reg V., 1822.

Proprietors of land to be at liberty to grant pottahs of land for any particular purpose, viz. the erection of houses, &c.

XV. Nothing contained in this regulation shall be construed to prohibit proprietors of land from granting, without the sanction of Government or its officers, to persons [*not being British subjects or Europeans, or descendants from Europeans*], leases or pottahs of land for any term of years or in perpetuity, on such terms as may be mutually agreed, for the erecting of dwelling-houses or buildings for carrying on manufactures, or other purposes, and for offices attached to such houses or buildings, or for gardens; nor from granting pottahs for clearing and bringing waste lands into cultivation. Pottahs bonâ fide granted for these purposes shall be binding on all future proprietors, notwithstanding the estates including such lands may have been sold to liquidate arrears of revenue due to Government, unless it may be proved in a *Court of Judicature* that the lands were not waste when granted in lease, but collusively granted or fraudulently obtained.

Superseded by Sec. vii., Reg. IV., 1832, and Act IV., 1837.

Such pottahs to be binding on all future proprietors.

Exception.

See Sec. ii., Reg. V., 1822.

A.D. 1802. REGULATION XXXI.

[THE RULES OF THE BENGAL CODE RESPECTING LA-KHIRAJ GRANTS, NOT BADSHAHI, ARE IN REGULATION XIX., 1793.]

A REGULATION *for Trying the Validity of the Titles of Persons holding, or claiming to hold, Lands exempted from the Payment of Revenue under Grants not being Badshahi or Royal Grants; and for determining the Amount of the Annual Assessment to be imposed on Lands so held, which may be adjudged to be, or may become, liable to the Payment of Public Revenue in the British Territories subject to the Presidency of Fort St. George:* PASSED *by the Governor in Council of Fort St. George, on the 13th of July,* 1802.

WHEREAS the ruling power of the provinces now subject to the Government of Fort St. George has, in conformity to the ancient usages of the country, reserved to itself and has exercised the actual proprietary right of lands of every description; and whereas, consistently with that principle, all alienations of land, except by the consent and authority of the ruling power, are violations of that right; but whereas considerable portions of land have been alienated by the unauthorized encroachments of the present possessors, by the clandestine collusion of local officers, and by other fraudulent means; and whereas the permanent settlement of the land-tax has been made exclusive of alienated lands of every description; it is expedient that rules should be enacted for the better ascertainment of the titles of persons holding, or claiming to hold, lands exempted from the payment of revenue to Government under grants not being badshahi or royal, and for fixing an assessment on such lands of that description as may become liable to pay revenue to Government: wherefore the following rules are enacted for that purpose.

All grants for holding lands exempt from the payment of revenue, made previously to the following dates, to be valid.

In the Northern Circars previously to the 26th of February, 1768.

In the Jagheer previously to the 26th of February, 1768.

In the Carnatic Payenghaut and in Tanjore previously to the 12th of July, 1792

In the Baramahal, in Salem, in Dindigul, and in Malabar, previously to the 18th of March, 1792.

II. All grants for holding lands exempt from the payment of public revenue in the circars of Chicacole, Rajahmundry, Ellore, Mustaphanagar, and Moortezanagar, which shall have been made previously to the 26th day of February, 1768; and all such grants as may have been made previously to the 26th day of February, 1768, in the lands commonly called the Company's Jagheer; and all such grants as may have been made previously to the 12th day of July, 1792, in the Carnatic Payenghaut and in Tanjore; and all such grants as may have been made previously to the 18th day of March, 1792, in the Baramahal, in Salem, in Dindigul, and in Malabar; and all such grants as may have been made previously to the 4th day of May, 1799, in Coimbatoor, Canara, and Soonda; and all such grants as may have been made previously to the 12th day of October, 1800, in the districts ceded on that day by the Nizam to the Company, and lying on the south bank of the rivers Kistna and Toombadra, shall be deemed to be valid;

In Coimbatoor, Canara, and Soonda, previously to the 4th of May, 1799.
In the ceded districts lying south of the rivers Kistna and Toombadra previously to the 12th of October, 1800.
Exception.

and all persons holding lands exempt from the payment of public revenue previously to the several dates hereinbefore specified shall continue to hold such lands without let or molestation: provided that such lands may not have escheated to the state, or may not have been resumed and assessed to the public revenue since the period of those dates respectively; and provided also that the present incumbents or their ancestors did obtain and hold actual possession of the said lands previously to the dates hereinbefore specified.

Doubts as to the competence of an officer to issue grants for exempted lands, or as to the authority of an officer to resume and assess such lands, to be determined by the Governor in Council only.

III. Where doubts may arise with respect either to the competence of a public officer to issue grants for exempted lands, or with regard to the authority of the public officer to resume and assess exempted lands, in cases to be tried under this regulation, the same shall be determined by the decision of the Governor in Council only, and the said decision produced in the Courts of Judicature shall regulate the judgment of such courts.

Where lands have paid revenue for twelve years, claims to exemption therefrom to be null and void.

IV. Where the lands of persons claiming to be exempted from the payment of revenue under authentic titles may have paid revenue, notwithstanding such titles, for a period of twelve years antecedently to such claims, the said lands shall continue to pay the public revenue in the same manner as if no such titles existed, and the said titles shall be null and void.

Life tenures resumable after the death of the incumbent.

V. Exempted lands held under life tenures shall be resumable by collectors from and after the death of such life tenants, and persons claiming exempted lands on expired life grants shall be nonsuited with full costs.

How the assessment of exempted lands, where the grants may expire or be resumed, is to be regulated.

VI. Where the grants for exempted land may expire or be resumed, such lands shall be liable to be assessed for public revenue in the same manner as if such grants had expired or had been resumed antecedently to the permanent assessment of the land revenue on the other districts of the zillah.

Persons holding exempted lands not liable, after the land revenue has been permanently fixed, to ejectment, except by the decree of a Court of Judicature.

VII. Persons holding exempted lands, under grants of any description, shall not be liable, after the land revenue may have been permanently assessed on the other lands of the zillah, to be ejected, except by the decree of a Court of Judicature.

Length of possession no plea in bar to the right of Government.

VIII. It shall not be competent for persons holding exempted lands under invalid titles to plead possession for any length of time whatever in bar to the right of Government to resume such lands; and persons resisting the demands of Government upon the grounds of long possession only shall be nonsuited with costs of suit.

Power given to collectors to require the production of grants for exempted lands.

IX. It shall be competent for collectors to demand from persons holding exempted lands the production of the sunnuds and deeds by which they hold, and such persons shall produce their sunnuds and deeds and deliver them to collectors, on sufficient receipts to be signed by the said collector.

Penalty in cases of refusal.

Persons refusing, or delaying unreasonably, to comply with the demands

of collectors for the production of their sunnuds shall be liable to pay such fine as the Adawlut of the zillah may adjudge, and for the second and every subsequent offence such person shall be liable to fine and imprisonment.

X. But it shall not be competent for collectors to institute suits in the Courts of Judicature for the recovery of exempted lands, except by the permission of the Board of Revenue obtained in writing for that purpose.

Collectors not to institute suits for the recovery of exempted lands without authority.

XI. Where collectors may be duly authorized to institute suits for the recovery of exempted lands, and the holders of such lands may persist in refusing to produce their sunnuds, or deny having any sunnuds, it shall be competent to collectors in such cases to attach the said lands, and to proceed against the holders of the said lands, in like manner as for the recovery of arrears of revenue.

Collectors how to proceed when provided with such authority and the holders of exempted lands refuse to produce their sunnuds.

XII. Where grants or sunnuds may be produced for lands to be held exempt from the payment of public revenue, being forged or counterfeited, or where the name of the original grantee may be forged and another name substituted, or where a name not in the original grant or sunnud may be inserted, or where the denomination of the tenure in the original grant or sunnud may be erased or altered, or where the date of the grant or sunnud may be changed or antedated, such grants and sunnuds shall be null and void, as far as may relate to the exemption of lands from the payment of revenue, and the officers of Government shall obtain decrees for the recovery of such lands, together with double costs of suit.

Penalty in cases of forged, counterfeited, or altered grants being produced

XIII. Persons practising frauds for the purpose of holding lands exempt from the payment of revenue shall be committed or held to bail (according to the circumstances of the case), to take their trial for criminal offences before the Courts of Foujdarry Adawlut.

Persons practising such frauds to be criminally prosecuted.

XIV. Where lands held under imperfect titles may be recovered by the officers of Government, a permanent assessment of the land revenue shall be fixed in such manner as if they had never been exempted, and shall thenceforward be rated in the registers of landed property at the full amount of the public revenue so assessed upon them.

How the assessment of exempted lands recovered by the officers of Government shall be fixed.

XV. A register shall be kept in each zillah of the lands held exempt from the payment of revenue previously to the dates hereinbefore specified, and such registers shall be corrected and renewed once in every five years. The registers shall specify the denomination of each grant or sunnud, the names of the original grantors or grantees, the names of the present possessors, with the relation they bear to the original grantees, the dates of the sunnuds, the names of the villages comprised in the grant, with the extent of land in cawnies or other local land measure, and the names of the purgunnahs in which the lands may be situated; such registers shall be denominated "Registers of lands exempt from the payment of revenue under grants not being badshahi or royal."

All lands exempted from the payment of revenue to be registered

What the register is to specify

And what it is to be denominated.

XVI. Persons actually holding lands exempt from payment of public revenue under sunnuds granted previously to the dates hereinbefore

All grants for exempted lands to be registered.

specified, shall, whether the sunnuds may or may not have been confirmed by competent authority, register the said particulars regarding their respective sunnuds in the offices of the collectors of zillahs.

Collectors to require the registry of all exempted lands by public notice

The notice to specify the information required.

XVII. Collectors of zillahs shall accordingly cause due notice to be given in all the cutcherries and public places of each zillah by written instruments, requiring persons holding exempted lands to register their respective sunnuds; and the said notices shall specify the particular information required for the purpose of registration.

Period of time allowed for registering such lands, and the consequence of omission therein

XVIII. Where persons holding exempted lands may refuse or omit to register their titles during one whole year from the time of publishing the notice of the collectors, such lands shall be liable to be assessed for the full amount of the public revenue, in the same manner as other lands of the purgunnah not held exempt under sunnud; but such assessment shall not be fixed by collectors, except by the sanction of the Board of Revenue previously obtained for that purpose in writing.

The registers to be duly authenticated, and by whom

Copies thereof to be kept in the Adawlut of each zillah.

Sunnuds not entered therein invalid.

XIX. The registers of exempted lands shall be paged and numbered and authenticated by collectors of zillahs; the judges of zillahs shall also write on the last page of such registers the number of pages contained in the book, and shall subscribe the same with their name; the keepers of native records shall prepare and keep counterparts of the said registers, and copies of such registers, duly authenticated, shall be deposited in the Adawlut of each zillah respectively. Sunnuds not entered in the registers, so authenticated and subscribed, shall not be deemed to be valid in any case whatever.

Native servants, whether public or private, surreptitiously registering, or causing to be registered, grants for exempted lands, to be punished by fine and imprisonment

XX. Where natives being in the public service of a judge or of a collector, or of an assistant collector, or natives being private servants or dependants of a judge or of a collector or of an assistant collector, may receive, directly or indirectly, any sum of money or valuable thing in consideration of registering or procuring to be registered, surreptitiously or otherwise, grants for exempted lands, not being lawful grants, such native servants or dependants shall, on due proof before a Court of justice, be rendered incapable of any public office in the service of Government; the amount of the money so received shall be forfeited, together with a fine of three times the amount to Government, with the charges of suit; and the offenders shall be imprisoned for a period of one whole year. The recovery of money so forfeited, together with the amount of the fines, shall be prosecuted in like manner as arrears of revenue. See Reg IX, 1822

A.D. 1802. REGULATION XXXII.

A REGULATION *for prohibiting Affrays respecting Disputed Boundaries in the British Territories subject to the Presidency of Fort St. George:* PASSED *by the Governor in Council of Fort St. George, on the* 13*th of July,* 1802.

[Rescinded by Section X., Regulation V., 1822.]

A.D. 1802. REGULATION XXXIII.

A REGULATION *to prevent the Embezzlement of Public Money and the Concealment of Public Papers in the British Territories subject to the Presidency of Fort St. George:* PASSED *by the Governor in Council of Fort St. George, on the* 13*th of July,* 1802.

[Rescinded by Section XIX., Regulation IX., 1822.]

A.D. 1802. REGULATION XXXIV.

[FRAMED UPON REGULATION XV., 1793, OF THE BENGAL CODE.]

A REGULATION *declaring the Rate of Interest on Money in the British Territories subject to the Presidency of Fort St. George:* PASSED *by the Governor in Council of Fort St. George, on the* 13*th of July,* 1802.

No general regulation having been hitherto promulgated regarding the rate of interest on past and future loans of money, the following rules have been enacted :—

Twelve per cent per annum to be the highest rate of interest.

II. The Courts of Adawlut shall not decree interest on money lent or on debts above the rate of twelve per cent. per annum.

If a lower rate be stipulated, such rate only to be paid.

III. Where a lower rate of interest may have been stipulated between parties than twelve per cent. per annum, the rate so stipulated, and no other, shall be paid.

Where the interest may exceed the principal, the excess not to be decreed

IV. Where the interest on debts or on money lent may have accumulated so as to exceed the principal money, the Courts of Adawlut shall not decree a greater sum for interest than the amount of such principal money.

Courts not to decree compound interest on intermediate adjustment of accounts.
Proviso.

V. The Courts of Adawlut shall not decree to creditors compound interest arising from intermediate adjustments of accounts; but this rule shall not extend to cases where accounts between the parties having been adjusted, the former bonds or agreements may have been cancelled, and new bonds or agreements taken for the aggregate amount of the principal, and the legal interest remaining due upon the adjustment consolidated into principal money.

See Act XXXII., 1839

Bonds given after twelve months subsequent to this regulation bearing more than the legal interest, not recoverable in the courts.

VI. Bonds or instruments which may appear to have been given after the expiration of twelve months subsequently to the issue of this regulation, for the security and evidence of debts, and bearing a higher rate of interest than twelve per centum per annum, [*shall not be recoverable in the Courts of Adawlut.*]

Modified by Sec. vii, Reg. II., 1825.

If given prior to this regulation, the legal interest only to be decreed.

VII. Where suits may be prosecuted on bonds or instruments given prior to the issue of this regulation, the Courts of Adawlut shall not decree the adjustment of such debts at a higher rate of interest than twelve per centum per annum.

How the courts are to act in cases of mortgages of real property where the mortgagee has had the usufruct both before and subsequently to the issue of this regulation

VIII. In cases of mortgages of real property in which the mortgagee may have had the usufruct of the mortgaged property, whether he shall have held it in his own possession or not, the usufruct shall be allowed to the mortgagee in lieu of interest, agreeably to the former custom of the country; provided it shall have been so stipulated between the parties, and provided such agreement may have been made prior to the issue of this regulation. In cases of such agreements bearing date subsequently to the issue of this regulation, the same interest only shall be allowed on such mortgage bonds as is allowed on other bonds granted on or subsequently to such date. And all such mortgages shall be considered to be virtually, and in effect, cancelled and redeemed whenever the principal sum of money, with the simple interest due upon it, may have been recovered from the usufruct of the mortgaged property, or otherwise liquidated by the mortgagor.

Rule for the adjustment of accounts in cases of mortgages above specified.

IX. For the adjustment of accounts in the cases of mortgages above specified, where the mortgagee may have had the usufruct of the mortgaged property, he shall deliver into court the accounts of his gross receipts from the property mortgaged, and also of his expenditures for the management or preservation of it; the mortgagee *shall swear, or* (*if he be of the*

See Act V., 1840.

description of persons whom the courts are empowered to exempt from taking oaths) shall subscribe a solemn declaration that the accounts delivered are true and authentic: the mortgagor shall have power to question the accounts, and to state objections on evidence; the Courts of Adawlut shall then adjust the accounts accordingly.

See Act XXXII, 1839.

This regulation not to affect respondentia loans or policies of insurance.

X. Nothing in this regulation shall be construed to extend to respondentia loans or policies of insurance, the interest on which shall be regulated by the terms of the deeds, and the laws and usages which prevail respecting such transactions.

A.D. 1802. REGULATION XXXV.

A REGULATION *for the Establishment of a more Efficient System of Police in the Zillah of Carangooly:* PASSED *by the Governor in Council of Fort St. George, on the* 13*th of August*, 1802.

[Rescinded by Section II., Regulation XI., 1816.]

A.D. 1802. REGULATION XXXVI.

A REGULATION *for removing the Court of Adawlut established at Carangooly to Chingleput:* PASSED *by the Governor in Council of Fort St. George, on the* 29*th of October*, 1802.

[Superseded by Regulation I., 1821, and Section LIII., Act VII., 1843.]

A.D. 1803. REGULATION I.

[RULES RESPECTING THE BOARD OF REVENUE ARE FOUND IN THE LATTER PART OF REGULATION II., 1793, OF THE BENGAL CODE.]

A REGULATION *for defining the Duties of the Board of Revenue, and for determining the Extent of the Powers vested in the Board of Revenue:* PASSED *by the Governor in Council of Fort St. George, on the* 1*st of January,* 1803.

WHEREAS it has hitherto been usual for the Board of Revenue to exercise judicial authority in the determination of certain cases of a civil nature appealed from the decision of the collectors, who were entrusted with the administration of the revenues and the distribution of justice in their respective districts; and whereas Courts of Judicature have been established for the purpose of administering justice in all cases civil and criminal; it is expedient that the judicial authority heretofore exercised by the Board of Revenue should be formally abrogated in those districts where Zillah Courts have been established. And whereas it is important to the security of the persons and property of those for the protection of whom the said courts have been established, that the powers and authorities entrusted to the said Board of Revenue, in respect of the executive administration of the revenues, should be defined and published; wherefore the following regulations have been passed by the Governor in Council.

The members of the Board of Revenue to take an oath

II. The members of the Board of Revenue are required by Act of Parliament* to take, previously to entering on the duties of their office, and do accordingly take and subscribe, the following oath, according to the law of England:— See Act XXI, 1837.

Oath.

"I, A. B., do promise and swear, that I will, to the utmost of my endeavours, well and faithfully execute and discharge the duties of an officer of revenue reposed in and committed to me by the United Company of Merchants of England trading to the East Indies; and that I will not demand, take, or accept, directly or indirectly, by myself or by any other person for my use, or on my behalf, of or from any rajah, zemindar, talookdar, poligar, farmer, renter, or ryot, or from any person paying or liable to pay any tribute, rent, or tax, to or for the use of the said United Company, any sum of money or other valuable thing, by way of gift, present, or otherwise, over and above, or besides and except the actual tribute, rent, or tax authorized to be taken by and for the use of the said United Company; and that I will justly and truly account for, answer, and pay, all the rents, duties, and other revenues and sums of money which shall come to my hands, or to the hands of any person or persons in trust for

* 33 Geo. III., c. 52, s. lxi.

or employed by me, as an officer of the revenues of the said Company, unto the said United Company.

"So help me God."

III. Where any member of the Board of Revenue may violate the foregoing oath, he will not only be liable to such punishment as the executive Government is empowered to inflict, by public degradation from his office, but will moreover incur the penalties of the criminal law of England.

Penalties attached to a violation of the oath.

IV. The duties of the Board of Revenue have been, and hereby are declared to be, the general superintendence of the revenues from whatever source they may arise, and the recommendation of such propositions to the Governor in Council, as in their judgment may be calculated to augment or improve those revenues.

The duties of the Board of Revenue.

V. The Board of Revenue have had, and are hereby declared to have, authority to superintend and control all persons employed in the executive administration of the public revenue; all zemindars or proprietors of land paying revenue, and all farmers, securities, ryots, or other persons concerned in, or responsible for, any part of the revenue of Government, as far as the said superintendence and control may relate to the executive administration of the revenue under the regulations now enacted, or to be hereafter enacted.

The superintendence and control of all persons employed in the executive administration of the revenues vested in the Board of Revenue.

VI. The Board of Revenue shall assemble two days, at the least, in every week for the despatch of business.

The Board to meet two days in every week.

VII. In the event of any of the members being prevented by indisposition or other cause from attending the meetings of the Board, two members shall be competent to form a Board.

Two members may form a Board.

VIII. The Board of Revenue shall use, in the transaction of official business, a circular seal two inches in diameter, bearing in the English and Persian languages this inscription: "The seal of the Board of Revenue;" and no other seal shall be used by the Board of Revenue.

The Board to use an official seal.

Inscription thereof.

IX. The Board of Revenue shall annually (or as often as they may be required) lay before the Governor in Council a general report of their proceedings, to be drawn out summarily, and under the distinct heads of districts, with reference to the dates of the consultations in which each subject is contained, which subject shall be respectively continued in each successive report from the date of the report preceding.

A summary report of the Board's proceedings to be laid before Government as often as required.

X. The Board of Revenue shall keep three separate sets of their proceedings, one set for the broken periods to accompany the general report above ordered; a second set to be sent to England complete by the first despatch after the expiration of each year, and a third set to be kept in the office. The Board of Revenue shall prepare and annex a copious index to the second and third sets.

To keep three sets of their proceedings.

XI. The Board of Revenue shall invariably acknowledge the receipt of

The receipt of all letters from Govern-

ment, how to be acknowledged.

all letters from the Governor in Council, reciting in abstract the substance of the letter so acknowledged, and the steps they have taken in consequence.

Their records to be preserved complete.

XII. The Board of Revenue shall be careful to preserve their records complete, and shall transmit to the Governor in Council, with the whole set of their proceedings, a list of all records, and of all papers not entered on the records.

The records not to be removed from the office, and no part of them to be copied for the members.
To be referred to at the office only.

XIII. The members of the Board of Revenue shall not have copies of any part of the records, nor remove any of the records from the office of the Board of Revenue. Members of the Board of Revenue wishing to refer to the records, shall cause such records to be brought into the meeting-room of the Board of Revenue, and shall peruse them there.

When reference to the Government records is wished for, how to be obtained.

XIV. When the Board of Revenue may have occasion to refer to the records of Government, they shall apply for such records to the Governor in Council.

Papers in the native languages to be accompanied with translations in English

XV. The Board of Revenue shall accompany all papers in the native languages which they may transmit to Government with translations in English.

All propositions to be submitted through the president

XVI. All propositions or suggestions intended by individual members for the consideration of the Board shall be submitted through the channel of the president.

No new propositions to be discussed till the previous question is disposed of.

XVII. Where new propositions may arise during the consideration of a question, such propositions shall not be discussed until the previous question shall have been disposed of.

A majority to decide the question.

XVIII. Questions at the Board of Revenue shall be determined by a majority, and the resolutions of the majority shall be the resolution of the Board, and shall be carried into execution accordingly.

Opinions of the members, how to be taken.

XIX. In deliberations, where questions may be put to the vote, the opinion of the junior member shall be first recorded, and then the opinions of the other members, according to their rank upwards.

The president to have a casting vote.

XX. Where a difference of opinion may happen, and where votes may be equally divided, the president shall have the casting vote; but the proceedings on any question shall, at the motion of any member, be referred to the Governor in Council.

Dissents from the majority, when to be recorded.

XXI. A member dissenting from the majority of the Board may record his dissent at the time, or at a future meeting; but no minute shall be recorded on the proceedings of the day unless delivered in before the adjournment of the Board, nor shall any alteration be made in opinions once recorded without the consent of all the members of the Board.

Rule to be observed in referring matters for

XXII. The Board of Revenue shall accompany all references made to

the Governor in Council, of their proceedings on matters requiring the decision of Government, with a letter stating summarily the nature of the subject submitted, and with distinct opinions and recommendations on each subject for the consideration and decision of the Governor in Council.

the decision of Government.

XXIII. In cases where it may be necessary for the despatch of business, the Board of Revenue may commit the charge of any specific duty to a particular member, but in no other case shall the members individually exercise any authority.

The Board may, in certain cases, entrust a specific duty to a particular member.

XXIV. The president of the Board of Revenue shall have authority to appoint and to change the days of meeting, to summon extra meetings of the members, and to postpone the regular meetings (provided, nevertheless, that two meetings be always held in one week), and to adjourn the Board at such hour as he may deem expedient.

Powers of the president with respect to the meetings of the Board.

XXV. The president, during the intervals of the meetings of the Board, may issue, of his own authority, such occasional or subsidiary orders as shall, in his opinion, be necessary for carrying into execution any existing resolution of the Board; to summon any person to attend the next meeting; and to issue orders to prepare materials for the consideration of the Board.

The orders he may issue during the intervals of meeting.

XXVI. The president shall regulate and prescribe the selection and arrangement of the business to be brought before the Board at each meeting.

May direct the selection of business.

XXVII. The president shall propose resolutions on all papers read for the consideration of the Board, and may state specific questions for the opinion of the members on the business before the Board.

All resolutions to be proposed by him.

XXVIII. The president shall have authority in all cases of emergency, while no Board may be sitting, to decide questions requiring an immediate decision, and to issue orders on all references requiring an immediate reply.

His powers in cases of emergency.

XXIX. [Provision for judicial investigations where there is no Zillah Court.]—*Rescinded by Section II., Regulation II.*, 1806.

XXX. The president shall have authority to require copies of any records, or to have the records themselves sent to him, for his perusal.

May have copies of any of the records, or the records themselves.

XXXI. The president shall have authority to call on collectors or assistant collectors for papers, accounts, or for any information he may require on the revenues of the district under such collector or assistant collector.

May call on collectors for any accounts or information concerning the revenues.

XXXII. Whatever authority is hereby declared to be vested in the president, shall be vested in the acting president for the time being; and in case of the absence of the president, the senior member present shall preside, and shall be vested with all the powers of the president.

The senior member to preside in the absence of the president, and to be vested with the same powers.

The Board of Revenue to be responsible for the discharge of the duties of their subordinate officers.

XXXIII. The Board of Revenue shall be responsible that the executive officers employed under them discharge the duties of their respective stations with assiduity, and shall require them to pay a ready and implicit obedience to all orders and regulations, and shall punish neglect in the subordinate officers of revenue, at their discretion, according to the powers vested in them for that purpose.

XXXIV. [Board authorized to summon collectors, &c. to the Presidency, and to fine them.]—*Rescinded by Section IV., Regulation V.*, 1828.

The settlement of the revenues, when to be made.

XXXV. The Board of Revenue shall be careful that the settlement of the revenues shall be made at as early a period of time after the commencement of the Fusly year as may be practicable, and shall report any delay in the completion of the settlement in the subordinate officers under them to the Governor in Council.

All settlements to be submitted to Government, and not to be valid till confirmed.

XXXVI. The Board of Revenue shall submit, as soon as may be practicable, to the consideration of the Governor in Council, all settlements of the public revenue, in cases where the revenue may not have been permanently fixed; and such settlements shall not be considered to be valid until confirmed by the authority of the Governor in Council.

The Board to ascertain the grounds of temporary settlements of collectors.

To prevent detriment to the revenue through negligence or ignorance.

To guard against excess of zeal.

XXXVII. In districts where the revenue has not been permanently fixed, it shall be the duty of the Board of Revenue to investigate and ascertain the grounds of the temporary settlements effected by the collectors, to compare the resources of the provinces with the revenue derived from them; to prevent, by early and constant vigilance, the impairment of the public revenue through the negligence or ignorance of the inferior officers; and to guard against encroachments on the rights of the people, or on the permanent sources of prosperity, which may ensue from an excess of zeal on the part of the revenue officers.

The Board to be careful that the revenues are duly realized.

XXXVIII. The Board of Revenue shall be careful that the revenues are realized according to the stipulated periods of payment.

XXXIX. [Board to investigate charges against collectors and their officers where no Zillah Court exists.]—*Rescinded by Section II., Regulation II.*, 1806.

The members of the Board not to trade or to be engaged in money transactions with natives concerned in the revenues.

XL. The members of the Board of Revenue shall not be concerned, directly or indirectly, in trade or commerce, or in houses of agency, or be concerned in the direction or management of banks, or in transactions for borrowing or lending money with native officers under the revenue department, or with zemindars, proprietors of land, renters, or other persons responsible for the revenue.

Lands not to be farmed to Europeans or their descendants, nor security for rents to be taken from them.

XLI. The Board of Revenue shall not [*farm lands to Europeans, or to descendants of Europeans, directly or indirectly, without the authority of Government; or**] accept the security of Europeans, [*or descendants of Europeans,*†] for renters, farmers, or landholders.

* Superseded by Act IV., 1837, and Sec. vii., Reg. IV., 1832.

† Superseded by Sec. vii., Reg. IV., 1832.

XLII. The Board of Revenue shall not grant or confirm grants or shrotriums, muctahs, fixed rents, enam or free-gift lands, or confirm the succession of persons to such lands, without the authority of the Governor in Council.

The Board not competent to make or to confirm grants of land.

XLIII. The Board of Revenue shall not continue the pension of deceased pensioners to the families of such deceased pensioners without the authority of the Governor in Council.

Nor to continue pensions without authority.

XLIV. to XLVII. [Judicial powers of Board of Revenue in districts where no Zillah Courts were established.]—*Rescinded by Section II., Regulation II.*, 1806.

XLVIII. The Board of Revenue shall provide that on the death, resignation, or removal of collectors, care be taken of the public money and records by the successors to such collectors, or by their assistants. The Board of Revenue shall not permit persons resigning or removed from their station to depart, until notification of their having delivered over charge of such money and records to their successors shall have been received.

Rules to be observed by the Board on the death, resignation, or removal of collectors.

XLIX. Where the Board of Revenue may consider the deputation of a member of their Board, or of any other person, necessary for purposes connected with the administration of the revenue, they shall report such necessity to the Governor in Council, and wait the orders of the Governor in Council previously to deputation.

How the Board are to act where the deputation of a member, or any other person, may be necessary.

L. The Board of Revenue shall nevertheless have authority to order assistant collectors to be deputed on any service they may deem expedient, within the limits of the collectorship to which such assistant collector may be attached; but shall not depute such assistants into districts to which they are not attached without the previous authority of the Governor in Council.

May depute assistant collectors on any service within the limits of the collectorship.

LI. The Board of Revenue shall recommend to the Governor in Council disbursements of money for tuccavy, for repairs, or for improvements in agriculture, where they shall be of opinion that the disbursement of such money will be beneficial to the public revenue.

The Board to recommend disbursements for tuccavy when necessary.

LII. The Board of Revenue shall require in the executive officers under their authority an attention to the principles of economy in the disbursement of the public money, and shall require the production of authentic and satisfactory vouchers for all disbursements made in repairs and in improvements.

The Board to be attentive to the economical disbursements of the public money.

LIII. The Board of Revenue shall require satisfactory reasons and explanations in support of any increase of expense applied for previously to referring such increase for sanction to the Governor in Council, and shall at all times submit their opinions on the amount of the increase of disbursements required to be made.

Every application for an increase of expense to be satisfactorily explained.

LIV. The Board of Revenue shall annually revise the moyen zabitehs

The moyen zabitehs to be annually revised

by the Board, and not to be confirmed without authority.

of the collectors, and shall submit such moyen zabitehs for the confirmation of the Governor in Council. It shall not be competent for the Board of Revenue to confirm the establishments of collectors without authority from the Governor in Council being first had and obtained.

How the Board are to act where remissions may be necessary.

LV. Where the Board of Revenue may consider a remission of the amount of an existing settlement to be requisite, or a remission of balances to be conducive to the public good, they shall submit the circumstances of the case, and the amount of the remission, to the consideration of the Governor in Council.

Extent of their power with regard to suspending the rigorous collection of the revenues.

LVI. The Board of Revenue shall suspend the rigorous collection of the revenues according to the stipulated periods, where satisfactory evidence of the necessity of a temporary suspension may be stated to them; but the Board of Revenue shall not extend the period of such suspension beyond the current Fusly without the previous authority of the Governor in Council.

The attachment and sale of lands for arrears to be ordered by the Board of Revenue when an arrear of revenue accrues.

LVII. The Board of Revenue shall direct collectors of districts, where a permanent settlement of the land revenue may have been concluded, to attach the lands of proprietors who may have fallen in arrear, and shall require collectors to dispose of the whole, or a part, of such lands, as the case may be, for the recovery of such arrear, in the mode and manner prescribed in the regulations.

LVIII. [Time when lands may be sold in satisfaction of decrees for arrear.]—*Rescinded by Section III., Regulation III.*, 1830.

A.D. 1803. REGULATION II.

[RULES RESPECTING COLLECTORS ARE FOUND IN REGULATION II., 1793, OF THE BENGAL CODE.]

A REGULATION *for describing and determining the Conduct to be observed by Collectors in certain Cases:* PASSED *by the Governor in Council of Fort St. George, on the* 1*st of January*, 1803.

WHEREAS under the system of internal government established for the administration of the public revenue, and for the security of persons and property, individuals should have the means of ascertaining and knowing the regulations passed for their benefit; and whereas the said system further requires that the power and authority heretofore vested in the immediate collectors of the revenue should be curtailed; wherefore the

following regulation has been passed for the purpose of defining the authority committed to collectors, and for describing the modes of procedure required in the discharge of their duty.

The collection of the revenues entrusted to covenanted civil servants.

II. The collection of the public revenue derived from land-tax, from duties on commodities by sea and land, from salt, from the excise on spirituous liquors or from other articles of taxation, shall be entrusted to collectors, who shall be covenanted civil servants of the Company.

Collectors to take an oath.

III. Collectors of revenue are required by Act of Parliament* to take, previously to entering on the duties of their office, and do accordingly take and subscribe, the following oath according to the law of England:—

See Act XXI, 1837.

Oath.

"I, A. B., do promise and swear, that I will, to the utmost of my endeavours, well and faithfully execute and discharge the duties of an officer of revenue, reposed in and committed to me by the United Company of Merchants of England trading to the East Indies; and that I will not demand, take, or accept, directly or indirectly, by myself, or by any other person for my use or on my behalf, of or from any rajah, zemindar, talookdar, poligar, farmer, renter, or ryot, or from any person paying or liable to pay any tribute, rent, or tax, to or for the use of the said United Company, any sum of money or other valuable thing, by way of gift, present, or otherwise, over and above, or besides and except the actual tribute, rent, or tax authorized to be taken by and for the use of the said United Company; and that I will justly and truly account for, answer, and pay all the rents, duties, and other revenues and sums of money which shall come to my hands, or to the hands of any person or persons in trust for or employed by me, as an officer of the revenues of the said Company, unto the said United Company.

"SO HELP ME GOD."

Consequences of violation of the oath.

IV. Where collectors may violate the foregoing oath, they will not only be liable to such punishment as the executive government in India is empowered to inflict, by public degradation from office, but will moreover incur the penalties of the criminal law of England.

Collectors under the orders of the Board of Revenue.

V. Collectors shall be under the immediate control of the Board of Revenue, and shall obey all orders communicated to them by the authority of that Board.

Papers and accounts to be furnished to all persons authorized to require them.

VI. Collectors shall furnish such papers or accounts relating to the revenues under their charge as may be required by the Board of Revenue, the President of the Board of Revenue, by the Accountant-General, or by any other public officer authorized to make such requisition.

All acts of collectors to be public.

VII. All acts and proceedings of collectors shall be held and done publicly; that is to say, in open cutcherries accessible to all persons.

Principles on which

VIII. Collectors shall administer the public revenues to the advantage

* 33 Geo. III., c. 52, s. lxi.

the revenues are to be administered

of the state, the happiness of the people, and the prosperity of the country; and shall suggest such propositions to the Board of Revenue as, in their judgment, may be calculated to augment and improve those revenues.

Collectors to have control over all persons employed under them, and over persons paying revenue or otherwise concerned in the revenue.

IX. Collectors have had, and are hereby declared to have, authority to superintend and control, under the orders of the Board of Revenue, all persons employed in the executive administration of the public revenue, all zemindars or proprietors of land paying revenue, and all farmers, securities, ryots, or other persons concerned in, or responsible for, any part of the revenue to Government, as far as the said superintendence and control may relate to the executive administration of the revenue under the regulations now enacted, or to be hereafter enacted.

Collectors to use a seal of office.

X. Collectors shall use, in the transaction of official business, a circular seal one inch and a half in diameter, bearing in the English and Persian languages, and in the language of the zillahs respectively, this inscription:

Inscription of the seal.

"The Seal of the Collector of the Zillah of

Collectors to transmit diaries of their proceedings to the Board of Revenue.

XI. Collectors shall keep diaries of their proceedings in the English language. The diaries shall contain a record of every official transaction of the collector, and shall be forwarded to the Board of Revenue for each month, on the 15th day of the succeeding month.

The public money, how to be kept by them

XII. Collectors shall keep the public money in a strong chest secured with two locks of different constructions; the key of one lock shall be kept by the collector, and the key of the other lock shall remain in the possession of the public shroff.

A jummabundy and kistbundy of land revenue, permanently assessed, to be furnished to the Board of Revenue.

XIII. Collectors of revenue in districts where a permanent assessment of the lands may have been fixed shall transmit to the Board of Revenue, within one month after the expiration of each Fusly year, in a form to be approved by the Board of Revenue, a jummabundy and kistbundy statement of the permanent revenue assessed on each zemindary or estate into which the districts have been divided or subdivided by the operation of the regulations, with an account subjoined of the amount of other items of revenue, whether rented or under the collector's management; noting in the one case the amount of the rent, and in the other the expected amount of collections.

An account of other items of revenue to be subjoined

Collections of the revenue to be made with regularity.

XIV. Collectors shall be careful that proprietors of land on whose estates the land revenue has been permanently fixed, and farmers of land, regularly discharge their taxes and rents agreeably to the kistbundy; and in the event of a proprietor or farmer of land falling in arrear, collectors shall proceed to recover such arrear in the mode prescribed by the regulations already passed, or to be hereafter passed for that purpose.

Persons deputed to attach estates, to be furnished with written powers.

XV. Collectors shall furnish the person or persons deputed by them to attach estates in pursuance of a decree of a Court of Judicature, or for an arrear of revenue, with sunnuds of appointment, and with written instructions under their seal and signature.

XVI. Collectors shall apportion the assessment on lands which may be ordered to be disposed of by public sale for the discharge of arrears of revenue, or in pursuance of a decree of a Court of Judicature, or which may be transferred, in the manner allowed by the regulations, from one individual to another.

The assessment on all lands to be sold or transferred, to be apportioned by the collectors.

XVII. Collectors shall be held responsible for justly and equitably apportioning the permanent assessment on all subdivisions of estates, and the amount of such assessment shall be regulated at a rate proportionate to the value which such subdivisions of estates bear to the gross assets of the whole estates.

Collectors to be responsible for apportioning the assessment on all subdivisions of estates, and how to regulate the rate thereof.

XVIII. Collectors, at the time they transmit statements of the public assessment so apportioned on subdivisions of estates for the consideration of the Board of Revenue, shall furnish the proprietors of the estates in question with the amount of the assessment so apportioned; and where the proprietors may object and appeal from the assessment proposed by the collectors for the subdivisions of the said estate, collectors shall immediately forward the same, with their remarks, to the Board of Revenue.

To furnish the proprietors with the amount so apportioned.

Any appeal therefrom to be immediately forwarded to the Board of Revenue.

XIX. Collectors shall be careful to specify in the conditions of sale (exclusively of the general conditions of sale as prescribed by the regulations), any particular obligation which may happen to fall on the purchaser of a subdivision of, or of an entire estate declared for sale.

Care to be taken that the conditions of sale shall specify any particular obligation not included in the general conditions of sale.

See Cl. 2, Sec. iv., Reg. III., 1830.

XX. Collectors, on receipt of a decree of a Court of Judicature ordering land paying revenue to Government to be sold, shall proceed to attach a sufficient portion of the said lands to answer the amount of the decree, in such mode as may be prescribed for recovery of arrears of revenue by the regulations, and shall immediately report such attachment to the Board of Revenue.

All attachments of land to be immediately reported to the Board of Revenue.

XXI. In attaching portions of estates for arrears of revenue, or in consequence of a decree of a Court of Judicature, collectors shall be careful to form the subdivisions compact, selecting such villages and lands as may be situated contiguously to each other. Collectors shall moreover have in view the nature of the soil and available resources of the different lands, and shall be careful to include, as nearly as may be practicable, equal portions of land with contracted means of improvement, and of lands with extensive means of improvement.

Rules to be observed by collectors in attaching portions of estates.

XXII. In forming subdivisions of estates, collectors shall be careful to preserve all the lands watered by one tank or watercourse in the same subdivision; and where it may be necessary to deviate from this rule, collectors shall fully explain such necessity to the Board of Revenue, and wait the orders of the Board on their reference, previously to concluding the arrangement.

In forming subdivisions, the lands watered by one tank to be preserved in the same subdivision.

Deviation therefrom to be reported.

XXIII. Collectors shall keep registers of all subdivisions of estates, and

Registers of all transfers of land to be kept.

of all transfers of landed property, in a form to be submitted to, and to be approved by, the Board of Revenue.

Registers of all alienated lands to be kept.

XXIV. Collectors shall keep, in a form to be approved by the Board of Revenue, registers of all alienated lands paying revenue to Government, or exempt from the payment of public revenue. The registers shall be kept in the mode and manner prescribed by the regulations already passed, or to be passed for that purpose.

The estates of disqualified landholders, how to be managed.

XXV. Collectors shall manage the estates of disqualified landholders in the manner prescribed by the regulations, or agreeably to such special orders as they may receive, in particular cases, from the Court of Wards.

The collection of the revenue of khas lands, how to be made.

XXVI. Collectors shall collect the revenue arising from lands held khas in such manner as may be directed by the Board of Revenue.

All lands held under invalid titles to be reported to the Board of Revenue.

XXVII. Collectors shall report to the Board of Revenue, whenever it may come to their knowledge, that lands are held under invalid titles; and on receiving the orders of the Board of Revenue, shall proceed to prosecute the holders of such lands in the mode and manner prescribed by the regulations.

Compensation to be received by collectors for the recovery of such lands.

XXVIII. Collectors shall receive for the trouble of prosecuting the holders of lands under invalid titles, a compensation equal to twenty-five per cent. on the amount of the annual jummah which may be assessed in perpetuity on lands, which may be recovered by the decree of a court.

Such compensation to be paid only to collectors prosecuting to final decision.

XXIX. Collectors prosecuting to a final decision shall receive the compensation. Collectors instituting suits for the recovery of alienated lands, but leaving the zillahs before final decisions may be passed, shall not be entitled to such compensation.

Lands for pensioners and invalids, how to be procured by collectors.

XXX. Collectors shall procure lands for native pensioners and invalids agreeably to the regulations prescribed for that purpose.

Collectors are to levy the assessment for the payment of the police department according to regulations or according to orders.

XXXI. Collectors shall collect the assessments that may be ordered to be levied for the payment of the department of police agreeably to the regulations enacted for that purpose, or agreeably to the orders of the Board of Revenue, in cases where the said Board may have authority to issue such orders.

How the items of revenue, exclusively of the land-tax, are to be collected.

XXXII. Collectors shall collect the revenue arising from sayer, salt, spirituous liquors, or from other sources, in the manner prescribed by the regulations; or in such manner as may be directed by the Board of Revenue in cases subject to their authority.

Collectors to grant receipts for all payments of revenue.

What the receipts are to specify.

The receipts to be registered.

XXXIII. Collectors shall grant receipts for all payments made into their treasury on account of the public revenue; which receipts shall specify the date of payment, the coin in which payment may be made, and the amount of such receipt shall be written in the English language and in the language of the zillah, and shall be registered and numbered in both

languages by the keepers of the records; the date of registry shall be indorsed on the back of each receipt.

XXXIV. Collectors shall transmit, on the 15th of each month, to the Board of Revenue, copies of the register of receipts for the preceding month.

Copy of the register to be sent, monthly, to the Board of Revenue.

XXXV. Collectors shall compel the tehseeldars, or other officers employed under them in the collection of the revenue, to grant receipts for moneys received by them, and to transmit monthly registers of the receipts so granted; the receipts granted by the tehseeldars, or other officers employed in the collection of money, shall contain all the items above specified.

Officers employed under the collectors, in the collection of revenue, to be compelled to grant similar receipts for the money received by them.

Superseded by Sec. III, Reg. VII, 1822.

XXXVI. [*The appointment and dismissal of native public servants, with the exception of the keepers of the records in the native languages, shall be in the collectors.*] Collectors shall employ none but the public registered servants in the conduct of public business, and collectors shall not employ public registered servants in the transaction of private business.

The appointment and dismissal of native servants vested in the collectors.

Public servants not to be employed in private, or private servants in public business.

See Reg. IX., 1822.

XXXVII. Collectors shall have authority to enforce obedience to their orders, by levying a fine upon public servants disobeying or neglecting such orders; provided that in no instance the amount of the fine shall exceed one month's pay.

Authority to fine native servants given to collectors.

XXXVIII. In districts where the land-tax may not have been permanently fixed, collectors shall investigate, with care and with attention, the rules which have immemorially guided the assessment of the public revenue.

In districts where the land-tax is not fixed, the rates of assessment to be investigated.

See Sec. iv., Reg. II., 1806

XXXIX. Collectors shall state the result of their investigation to the Board of Revenue, and shall regulate their demands on the ryots on principles of moderation, and with a just regard to the rights of Government, to the rights of the people, and to the prosperity of the country.

Result thereof to be reported to the Board of Revenue, and how the demands on the ryots are to be regulated.

XL. Collectors, in districts where the rent may not have been permanently fixed, shall not increase or diminish the rates of warum, or rates of quit-rent, without permission being first had and obtained from the Board of Revenue for that purpose.

The rates of warum or of quit-rent not to be altered without permission.

XLI. In districts where the land-tax may not have been permanently fixed, collectors shall report to the Board of Revenue all unauthorized alienations of land, with every circumstance relating to such land; but collectors shall not resume alienated lands without authority from the Board of Revenue.

All unauthorized alienations of land to be reported to the Board of Revenue, and not to be resumed without authority.

XLII. [Collector not to remove a proprietor without sanction of Board in districts not permanently settled.]—*Rescinded by Section II., Regulation II.*, 1806.

Collectors not to grant cowles without authority.

XLIII. Collectors shall not grant cowles of any description without authority from the Board of Revenue; and all cowles granted by collectors shall contain the dates of the authority of that Board.

Cannot authorize the alienation of land.

XLIV. Collectors shall not, in any case, authorize the alienation of land without authority from the Board of Revenue.

XLV. and XLVI. [Requisition for military, when allowable to collectors.]—*Rescinded by Section II., Regulation II.*, 1806.

XLVII. to LV. [Judicial powers of collectors in districts where no Zillah Courts were established.]—*Rescinded by Section II., Regulation II.*, 1806.

LVI. to LVIII. [Powers of magistrates to be exercised by collectors in districts where no Zillah Courts were established.]—*Rescinded by Section II., Regulation II.*, 1806.

Collectors to make no advances of money without the authority of Government.

LIX. Collectors shall not make disbursements of public money for advances for cultivation, or repairs of tanks, or for any other purposes, without having previously obtained, through the channel of the Board of Revenue, the authority of the Governor in Council for such disbursement.

Collectors and assistants not to be concerned in any farm of the public revenue, or to permit their native servants so to be concerned

LX. Collectors, and assistants to collectors, shall not be concerned, directly or indirectly, in any farm of the public revenue, either as renters, securities, or otherwise. Collectors or assistants to collectors shall not permit their native servants to be concerned, directly or indirectly, in any rent or farm of the public revenue, or to be security for any farmer or renter of lands on which the rent may have not been permanently fixed.

Not to lend money to any person concerned in the revenue.

LXI. Collectors, and assistants to collectors, shall not lend money, directly or indirectly, to proprietors of land, renters, or persons responsible for the revenue, or in any way concerned in the management of the public revenue.

Not to grant lands in farm to Europeans or their descendants, or to accept *them* as securities.

LXII. [*Collectors shall not grant lands in farm to Europeans, or descendants of Europeans, either directly or indirectly.**] Collectors shall not accept the security of Europeans [*or descendants of Europeans*†] for proprietors or renters of land, or for farmers of the public revenue.

* Superseded by Act IV., 1837, and Sec vii, Reg. IV., 1832

† Superseded by Sec vii., Reg. IV., 1832.

Not to occupy grounds or to erect buildings without sanction

LXIII. Collectors, and assistants to collectors, shall not occupy ground nor erect buildings thereon, without the sanction of the Board of Revenue.

Not to be concerned in any trade

LXIV. Collectors, and assistants to collectors, shall not exercise or carry on trade or commerce, directly or indirectly, and shall not be engaged in any bank or house of agency.

Not to publish any thing which may affect the intercourse of the British nation with foreign states.

LXV. Collectors shall not publish proclamations or orders which may in any shape affect the intercourse of the British nation with foreign states, without an express order from the Governor in Council for that purpose.

LXVI. Collectors, and assistants to collectors, shall (in cases requiring it) apply to the Board of Revenue for temporary leave of absence from their station. Collectors, or assistants to collectors, shall not absent themselves from their stations without having previously obtained the permission of the Board of Revenue. In the event of severe illness compelling collectors to quit their stations, without such authority, on the affidavit of medical persons with respect to the necessity of such absence, they shall deliver charge of their districts to the head assistant on the spot, and shall report the circumstance without delay to the Board of Revenue.

To whom to apply for leave of absence from their station.

LXVII. In the absence of collectors, the senior assistant on the spot shall take charge of the public business.

Head assistant to have charge in the collector's absence.

LXVIII. On the resignation or removal of collectors, they shall deliver to their successors or assistants every public account and document, with all original letters received, and attested copies of all letters sent, relative to their charges respectively. Collectors shall certify, officially, duplicate lists of such accounts and documents, and shall deliver one list to their successors or assistants, and shall forward the other list to the Board of Revenue.

Collectors, on being removed or resigning, to deliver over all public documents to their successors, with duplicate lists thereof.

Lists how to be disposed of.

LXIX. Collectors on receiving charge shall count the balance of cash delivered to them, and shall grant receipts for the amount in duplicate; one receipt shall be retained by the person delivering over charge, and the other shall be transmitted to the Board of Revenue.

Collectors, on receiving charge, to count the balance of cash and grant receipts in duplicate.

Receipts how to be disposed of.

A.D. 1803. REGULATION III.

A REGULATION *for defining and declaring the Extent of the Jurisdiction of the Courts of Adawlut established, or to be established, in such Part of the British Territories subject to the Presidency of Fort St. George, and denominated the Northern Circars, as lies North of the River Kistnah; and for extending the Jurisdiction of the Zillah Court of Guntoor to such Part of the Northern Circars as lies South of the River Kistnah:* PASSED *by the Governor in Council of Fort St. George, on the* 18*th of March,* 1803.

[Superseded by Regulation I., 1821, and Section LIII., Act VII., 1843.]

A.D. 1803. REGULATION IV.

A REGULATION *for suspending, in the Province of Malabar, the Functions of the Foujdarry Adawlut established for the Province of Malabar, Canara, and Soonda-Balaghaut:* PASSED *by the Governor in Council of Fort St. George, on the* 15*th of April,* 1803.

[Rescinded by Section V., Regulation IV., 1804.]

A.D. 1803. REGULATION V.

A REGULATION *for removing the Court of Appeal established at Madura to Trichinopoly:* PASSED *by the Governor in Council of Fort St. George, on the* 22*nd of April,* 1803.

[Superseded by Regulation I., 1821, and Section LIII., Act VII., 1843.]

A.D. 1803. REGULATION VI.

A REGULATION *for extending the Jurisdiction of the Zillah Court of Chingleput over the Zemindaries of Vencataghirry, Calastry, Bomrauzepollam, and Sydapour:* PASSED *by the Governor in Council of Fort St. George, on the* 22*nd of April,* 1803.

[Rescinded by Clause Second, Section II., Regulation X., 1808.]

A.D. 1803. REGULATION VII.

A REGULATION *for establishing a Zillah Court at Ramnad, and for defining the Limits of its Jurisdiction:* PASSED *by the Governor in Council of Fort St. George, on the 27th of May,* 1803.

[Rescinded by Section IX., Regulation XI., 1808.]

A.D. 1803. REGULATION VIII.

A REGULATION *for declaring the Poligars of the Jagheer not amenable to the Zillah Court of Chingleput for Debts contracted in their official Capacity, and for appropriating a Fund for the Proportionate Liquidation of such Debts:* PASSED *by the Governor in Council of Fort St. George, on the 5th of August,* 1803.

[This Regulation declared a special fund to be appropriated to the liquidation of certain debts therein referred to, provided that the claims were preferred within twelve months from the date of this enactment. It is therefore no longer in force.]

A.D. 1803. REGULATION IX.

A REGULATION* *for levying a Duty on the Imports and Exports of Merchandise by Sea at the Port of Madras, for determining the Amount of Duty, and for defining the Rules under which that Duty shall be collected:* PASSED *by the Governor in Council of Fort St. George, on the 12th of August,* 1803.

WHEREAS it is provided by Section II., Regulation I., 1802, that the rules and orders of the Governor in Council for the imposition or levying

* The superintendence and control over the officers employed in the departments of Sea Customs were transferred by Reg. XV., 1808, to the Board of Trade, but that regulation was in great part rescinded by Act VI., 1844, and the functions of the Board of Trade have ceased under the Charter Act of 3 & 4 Wm. IV., c. 85. The duties of the Collector of Sea Customs are now performed under the superintendence of the Board of Revenue, according to the provisions of this Regulation.—See also Sec. iv., Reg. I., 1803.

By the Order in Council of the 28th July, 1843, there were established in the zillah of Chingleput a Zillah Court, constituted according to Act VII., 1843, and a Principal Sudder Ameens Court, constituted according to Reg. VII., 1827.

of taxes, or of duties on commerce, shall be framed into a regulation and printed and published; and whereas it has become expedient to modify and simplify the regulations under which a duty on imports and exports of merchandise at the port of Madras is now collected, and to provide for the enforcement of the regulations so modified under the protection of a Court of Justice, by rendering the revenue officers employed in the collection of the duty amenable to the Zillah Court established at Chingleput, for all acts done contrary to this regulation; wherefore the following rules have been enacted by the Governor in Council, to take effect and be in force on and after the first day of October, 1803.

II. to LIV. [Rescinded by Section II., Act VI., 1844.]

The collector and his officers amenable to the Zillah Court of Chingleput.

See Sec. lxiii., Act VI., 1844.

Substitute Act VI., 1844.

LV. The collector of customs and his deputy, and assistants and native officers employed in the collection of the customs at the port of Madras, shall be amenable to the Zillah Court of Chingleput for any act or acts done in their official capacity, contrary to, or not warranted by, *this regulation*, in the same manner as if they resided or carried on the public business committed to their charge within the limits of the jurisdiction of the said zillah, and the said court is accordingly hereby empowered to take cognizance of such suits.

Persons deeming themselves aggrieved by any act of the collector at liberty to institute a suit in the Zillah Court of Chingleput.

LVI. Persons deeming themselves aggrieved by the confiscation of their goods, or by the levying of double duty on such goods under circumstances which may appear to them not to warrant, conformable to the provisions contained in *this regulation*, the confiscation of such goods, or the subjecting them to the payment of double duty, may institute a suit in the Court of Chingleput for the recovery of the value of such goods, if they shall have been confiscated, or of the amount of the double duty, in the event of double duty having been levied on such goods, together with damages for the loss which such persons may have sustained thereby.

Suits instituted against the collector or his officers, how to be tried.

LVII. Suits instituted against the collector of customs, his deputy, assistants, or native officers, shall be tried in the manner prescribed by the regulations respecting suits instituted against collectors of revenue in zillahs.

Security to be required by the court from persons instituting suit against the collector or his officers.

Process shall not issue before security is given.

LVIII. The court shall require all persons instituting suits against the collector of customs to give good and sufficient security to prosecute such suits to an issue, and to pay whatever damages may be awarded against them by the decree of the court, in the event of the suits so instituted proving to be groundless or litigious. The court shall not issue process against the collector of customs until the required securities shall have been given.

Process how to be served upon the collector.

LIX. When written process shall be issued by the Court of Chingleput against the collector of customs at Madras, [*the register to*] the court shall transmit such process under a sealed cover, addressed to the collector, in the form of a letter, and superscribed with his name and official appellation. The collector shall immediately acknowledge the receipt of the process by

an indorsement to that effect on the instrument, and return it under a sealed cover to [*the register to*] the court.

LX. The collector of customs shall report to the Board of Revenue the institution of any suit against him under this regulation, and shall receive the orders of the Board of Revenue to defend the suit, or to make satisfaction to the party or parties, if the Board of Revenue shall see reason to do so.

Collector to report to the Board of Revenue the institution of any suit against him and to receive instruction whether to defend it or make satisfaction.

LXI. The collector of customs shall be indemnified for all costs and damages awarded against him by the court in suits defended under the orders of the Board of Revenue.

Collector to be indemnified for damages awarded against him in suits defended under the orders of the Board of Revenue.

LXII. If the collector of customs shall undertake the defence of any suit without reporting the same to the Board of Revenue, and receiving their orders thereon, the defence, so undertaken, shall be at the cost and risk of the collector of customs; but it shall be in the option of the Board of Revenue to order the defence, so undertaken by the collector of customs, to be conducted on the public account, and at the expense of Government; or in the event of the suit having been decided against the collector of customs, to recommend to the Governor in Council that any part or the whole of the costs and damages awarded against the collector of customs may be defrayed from the public treasury.

The defence of any suit undertaken without reference to the Board of Revenue shall be at the charge and risk of the collector.

The Board may order the defence to be conducted at the expense of Government.

May recommend the costs awarded against the collector to be defrayed from the public treasury.

LXIII. In prosecutions which may be instituted in the Zillah Court of Chingleput against the collector of customs at Madras, for any act or acts done in his official capacity contrary to, or not warranted by, *this regulation*, or for any act or acts which may not involve claims to moneys received or demanded by him on behalf of Government in conformity to *this regulation*, such suits shall be considered to be entirely of a private nature between the collector of customs and the prosecutors; the collector of customs shall defend such suits at his own risk and expense, in the same manner as other individuals amenable to the jurisdiction of the Court of Chingleput, who may not be employed by Government.

Substitute Act VI, 1844

Suit to be considered of a private nature defined.

LXIV. The collector of customs shall not derive pecuniary advantage from the suits which may be instituted against him in the Zillah Court of Chingleput, in his official capacity, with exception to the personal suits of the nature described in the preceding section; but the amount of the costs and damages decreed against individuals instituting suits against the collector of customs, in his official capacity, on the ground of such suits being vexatious and litigious, shall be carried to the credit of Government.

The collector shall not derive pecuniary advantage from suits instituted against him in his official capacity.

Exception

The amount to be carried to the credit of Government

LXV. Security shall not be demanded from the collector of customs at Madras for his personal appearance in any suit in which he may be engaged, under this regulation, nor for the payment of the costs and damages that may be awarded against him. If the collector of customs at Madras shall omit or refuse to obey any order or decree of the Zillah Court of Chingleput in any suit instituted against him under this regulation, the court is empowered to fine him according to the nature and extent of the offence. In the event of the collector of customs persisting in refusing to

Security shall not be demanded from the collector for personal appearance or obedience to the decree of the court

Collector liable to be fined for disobedience.

Further disobedience to be reported to the

Governor in Council, that the decree may be enforced

obey the order or decree of the court, and to pay the fine imposed on him by the court for disobedience, the judge shall state the case to the Governor in Council, in order that the decree may be enforced by deducting from the salary and emoluments of the collector of customs the amount of the costs and damages decreed against him, together with the fine imposed by the court.

The benefit of appeal allowed to the collector.

LXVI. The collector of customs at Madras shall have the benefit of appealing from the decisions of the Zillah Court at Chingleput [*to the Provincial Court of Appeal for the centre division, and from the decrees of that court*] to the Sudder Adawlut, and ultimately to the *Governor* in Council, subject to the rules and regulations prescribed regarding appeals from the decisions of those courts respectively (with exception to finding the securities required to be found by individuals); but in suits which may be defended on the public account, under the orders of the Board of Revenue, the collector of customs shall not appeal without having received their written authority for that purpose.

Substitute "Her Majesty" See Sec. v, Reg XV, 1808, and Reg. VIII, 1818

In suits defended on the public account, the collector not to appeal without orders from the Board of Revenue.

Instructions of the collector to the vakeels of the courts, how to be transmitted.

LXVII. The instructions which the collector of customs may transmit to the vakeels of Government in the court respecting suits instituted against him under this regulation shall be enclosed under a sealed cover, and directed to the vakeel, and transmitted under a sealed cover addressed to *the register of* the court in which the cause may be depending, and superscribed with the official appellation of the collector. The *register of the* court shall deliver such instructions to the vakeel. In like manner the vakeels shall transmit, through *the registers of* the respective courts, the papers and documents which they may have to return to the collector of customs.

Vakeels how to return the vouchers transmitted to them

The collector not liable to prosecution for the acts of his predecessor.

LXVIII. The collector of customs shall not be liable to prosecution for any act of his predecessor; but in the event of the collector of customs being removed from office during the time while suits in which he may be engaged, and for which he may be individually answerable, are depending in the court, he shall carry them on in the same manner as if he had continued in office.

In case of removal, to defend suits of a private nature as if he had remained in office

The collector for the time being to conduct the suits in which Government may be responsible

LXIX. The collector of customs for the time being shall carry on suits for which Government may be ultimately responsible under the orders of the Board of Revenue.

Rules respecting the collector to apply to the other officers employed under him, being covenanted servants

LXX. All the rules contained in this regulation respecting the collector of customs are to be considered equally applicable to his deputy or assistant (being covenanted servants of the company), whilst officiating as collectors.

LXXI. and LXXII. [Authority and publication of this Regulation.]—*Rescinded by Section II., Act VI.*, 1844.

A.D. 1803. REGULATION X.

A REGULATION *for levying a Duty on the Imports of Merchandise by Land into the Town of Madras and circumjacent Villages, and on Articles manufactured or produced within the said Towns and Villages; for determining the Amount of Duty, and for defining the Rules under which that Duty shall be collected:* PASSED *by the Governor in Council of Fort St. George, on the* 12*th of August,* 1803.

[Superseded by Act VI., 1844, which abolishes Transit and Inland Customs Duties.]

A.D. 1803. REGULATION XI.

A REGULATION *for levying a Duty on Imports and Exports by Sea at the several Ports in the Provinces subject to the Authority of the Government of Fort St. George; for determining the Amount of Duty, and for defining the Rules under which that Duty shall be collected:* PASSED *by the Governor in Council of Fort St. George, on the* 12*th of August,* 1803.

[Rescinded by Act VI., 1844.]

A.D. 1803. REGULATION XII.

A REGULATION *for levying a Duty on Goods imported by Land from, and exported to the Territories of Foreign States in India; and on Articles of Merchandise produced or manufactured or consumed in certain Towns and Places; for determining the Amount of Duty, and for defining the Rules under which that Duty shall be collected:* PASSED *by the Governor in Council of Fort St. George, on the* 12*th of August,* 1803.

[This Regulation was rescinded by Section II., Regulation I., 1812, which Regulation was afterwards rescinded by Act VI., 1844, excepting in so far as it rescinded previous Regulations.]

NOTE.—There is no Regulation numbered XIII. of 1803 in the Code.

A.D. 1803. REGULATION XIV.

A REGULATION *for transferring the Zemindarry of Oopadah to the Jurisdiction of the Zillah Court of Rajahmundry:* PASSED *by the Governor in Council of Fort St. George, on the* 18*th of November,* 1803.

[Superseded by Regulation I., 1821, and Sec. LIII., Act VII., 1843.]

A.D. 1803. REGULATION XV.

A REGULATION *for determining the Punishment to be adjudged by the Criminal Courts of Judicature, in Cases wherein a Discretion is left by the Mahomedan Law; for defining the Crime and Punishment of Robbery by open Violence; and for declaring what Convicts shall be hereafter liable to Transportation or to Banishment; as well as the Punishment of such as may return from Transportation, or escape from Confinement during the Period of their Sentences:* PASSED *by the Governor in Council on the* 30*th December,* 1803, *corresponding with the* 17*th Margaly of the* 1825*th year of Saliwahana, and with the* 16*th Rumzan,* 1218 *Hejeree.*

THE Mahomedan law vests in the sovereign and his delegates the power of sentencing criminals to suffer discretionary punishment (under the legal denominations of tazeer, acoobut, and seeasut) in three cases:—*First,* in the case of offences for which no specific penalty of hud or kissaas has been provided by the law, being for the most part offences not of a heinous nature, the punishment of which is left discretionary below the measure of the specific penalties for the correction and amendment of the offender. *Secondly,* for crimes within the specific provisions of hud and kissaas, when the proof of the commission of such crimes may not be such as the law requires for a judgment of the specific penalties, though sufficient to establish a strong presumption of guilt; or although the proof be such as is required for a sentence of hud or kissaas, when such sentence is barred by remission of the claim to retaliation in cases of kissaas, or by any of the special exceptions and scrupulous distinctions, which (under the general denomination of shoobah) are considered by the prevalent authorities of Mahomedan law to bar a judgment for the specific penalties of that law. *Thirdly,* for heinous crimes in a high degree injurious to society, and particularly for repeated offences of this description, which for the ends of public justice (as expressed by the term seeasut) may appear to require exemplary punishment beyond the prescribed penalties; and with respect to crimes of this description, an unlimited discretion extending to capital punishment is admitted to have been left by the Mahomedan law to the

sovereign authority of every country in which that law prevails, as well as to its judiciary delegates. In the adjudication of punishments under the discretion thus allowed by the Mahomedan law, especially in the second of three cases above stated, it has been observed, that the futwahs of the Mahomedan law officers of the Criminal Courts are often governed by a consideration of the degree of proof against the party accused, rather than the degree of guilt and criminality of the act established against him; and the penalties awarded by them in such cases are either adjudged on insufficient proof of guilt, or are inadequate to the heinousness of the offence of which the prisoner is convicted. It is therefore necessary that provision be made for determining the punishment to be adjudged by the criminal courts in all cases wherein a discretion is left by the Mahomedan law, as well to guard against the infliction of any punishment without sufficient evidence of guilt, as to maintain the uniform and adequate punishment of offenders when convicted, according to the criminality of the offences established against them. It is further requisite to define the crime and punishment of robbery by open violence, under the continued prevalence of this atrocious crime, which is frequently attended with murder, or with maiming or other personal injury, as well as with the crime of arson or wilful burning of houses, and other aggravating circumstances, and for the punishment of which the specific provisions of the Mahomedan law, under the distinctions admitted to except offenders from the stated penalties, as well as from a distinction in the received construction of that law between highway robbery at a distance from any inhabited place, and robberies not committed on or near the highway, or committed in or near any place inhabited, have been found altogether inadequate. In the case of murder committed by one or more robbers on the highway (kutta-ool-tureek) at a distance from any inhabited place, the whole of the principals and accomplices are subject, by the Mahomedan law (under its specific provision of hud, or stated punishment by the right of God, being in other words exemplary punishment inflicted for the prevention of crimes, which is the end of public justice), to a sentence of death; the same punishment, in this instance, is inflicted on the whole band, in consideration of each of them being aiding and abetting to the others; and this principle is allowed by some of the Mahomedan lawyers, as obviously applicable to all murders and other crimes committed by open violence, and by a number of persons assisting and supporting each other, whether on the highway remote from, or near to, an inhabited place, or within a place inhabited, or in any other place whatever; but according to the prevailing doctrines, this provision of the Mahomedan law, as well as the provisions it contains for the punishment of highway robbery without murder, by amputation of two limbs, cannot be applied to murders or robberies committed in any other place than on or near the highway, at a distance from any place inhabited; and even with respect to these it is held that the specific punishment is barred by any one of the band of robbers being under age, or a lunatic, or a relation within the prohibited degrees of the person robbed or murdered, or by the person robbed or murdered not being a fixed resident under the permanent protection of the Mussulman Government; or with respect to robberies by one of the robbers having a joint interest in the property plundered, or such property not being considered in legal custody with respect to any one of the

robbers, or lastly, with regard to the separate punishment of each robber, if his share of the property taken shall not amount in value to ten dirms, being, according to the received calculation of the dirm, somewhat less than three sicca rupees. These distinctions are evidently repugnant to the principles of public and equal justice; and it is highly requisite that provision be made for the more certain and adequate punishment of the heinous crimes of murder and robbery, as well as of robbery with or without any other acts of aggravated criminality, wheresoever the same may be committed. Moreover, the rules at present in force for the transportation of convicts who escape from confinement and are re-apprehended, as well as of other convicts sentenced to short periods of imprisonment, have been found open to objection; and it is judged advisable that none except persons convicted of heinous offences, and sentenced to be imprisoned for life, shall be hereafter transported beyond sea; substituting banishment from the district in which the offender's place of abode may be situated, with hard labour in the public works for convicts sentenced to limited imprisonment, and in consideration of the nature of their offences deemed proper objects of this mode of punishment. The Right Honourable the Governor in Council has accordingly, for the several reasons and purposes aforesaid, enacted the following rules to be in force from the time of their promulgation in the provinces subject to the Government of Fort St. George.

Futwah to be given by law officers of the *Courts of Circuit* in all cases of discretionary punishment.

II. *First.* In all trials before the *Courts of Circuit* wherein the Mahomedan law officers of those courts may consider the prisoner liable to discretionary punishment (tazeer, acoobut, or seeasut), their futwah shall declare the same generally, with a statement of the grounds on which the prisoner is adjudged subject to discretionary punishment, leaving the measure of punishment in such cases to be determined by the *Judge of Circuit* before whom the trial may held, or by the Court of Foujdarry Adawlut under the provisions contained in this or any other regulation.

Sentence to be passed in such cases if the crime have been provided for by any regulation.

Second. If the crime for which the prisoner is declared liable to discretionary punishment in such cases shall have been specially provided for by any subsisting regulation denouncing the penalty to be adjudged on proof of the commission of such crime, and the judge before whom the trial may be held shall consider the crime to have been established against the prisoner, whether by his free and voluntary confession, or by the testimony of credible witnesses, or by strong circumstantial evidence, he shall sentence the prisoner to suffer the punishment for such crime prescribed by the regulations; or, if the case be referable under the regulations for the sentence of the Foujdarry Adawlut, shall transmit the trial, with his opinion thereupon, to that court.

Second futwah to be required and sentence passed thereupon if the crime have not been provided for by any regulation, but be specifically provided for by the Mahomedan law, and the penalty of hud or kissaas is not adjudged from the prisoner's being convicted on presumptive proof, not on full legal evidence.

Third. If the crime for which the prisoner is declared liable to discretionary punishment shall not have been specifically provided for by any regulation denouncing the penalty to be adjudged on proof of the commission of it, but be such as would have subjected the prisoner to the specific penalty of hud or kissaas provided by the Mahomedan law, if he had been convicted by full legal evidence; and the futwah of the law officer shall declare him liable to discretionary punishment in consequence of the evidence not being such as the Mahomedan law requires for a sentence of hud or kissaas, though sufficient to convict the prisoner on

strong presumptive proof (ghalib-oo-zun), the judge before whom the trial may be held, provided he concur in the conviction of the prisoner, shall require the law officer to declare by a second futwah to what specific punishment (of hud or kissaas) the prisoner would have been liable under the Mahomedan law if he had been convicted by full legal evidence, and shall proceed thereupon to pass sentence according to such second futwah (commuting the punishment if any regulation require it); or if the case be referable for the sentence of the Foujdarry Adawlut, shall transmit the trial with his opininion to that court.

Fourth. The judge before whom the trial may be held shall proceed in like manner as directed in the preceding clause, when the crime of which the prisoner is convicted (whether upon full legal evidence or upon strong presumptive proof) may not have been specifically provided for by any regulation, but would subject the prisoner to the specific penalty of hud or kissaas, provided by the Mahomedan law, if the sentence against him for such penalty were not barred by some special exception, or scrupulous distinction (shoobah), not affecting the nature and criminality of the offence, and evidently repugnant to the principles of equal justice, in consequence of which bar to adjudgment for the specific penalty, the prisoner is declared liable to discretionary punishment; in such cases, the law officer is to declare, by a second futwah, to what punishment the prisoner would have been liable under the Mahomedan law for the crime committed by him, if the special exception or distinction by which hud or kissaas is barred in the particular case had not existed, and the judge is to proceed thereupon as directed in the preceding clause.

Similar mode of proceeding to be observed when the crime may not have been provided for by any regulation, and sentence of hud or kissaas is barred by some legal exception or distinction not affecting the nature of the offence and repugnant to justice.

Fifth. Nothing in this section, however, shall be construed as authorizing a sentence of discretionary punishment exceeding or equal to the specific punishment prescribed by the Mahomedan law in cases where such specific penalty is remitted or mitigated by the provisions of the Mahomedan law, in consideration of circumstances which alter the nature and diminish the criminality of the offence, unless such enhanced or equal punishment for the crime in question shall have been expressly denounced by some regulation in modification of the Mahomedan law.

Explanation of this section in cases where the specific penalty is remitted or mitigated by the Mahomedan law in consideration of circumstances which alter the nature and diminish the criminality of the offence.

Sixth. Nor shall any part of the present regulation be considered to authorize the infliction of any punishment whatever upon suspicion only (termed by the Mahomedan lawyers Whum, Sheck, Shoobah-zaeefah), when the evidence against the prisoner is undeserving of credit, or the presumption of his guilt arising from credible testimony or circumstantial evidence is weak and does not amount to the degree of strong presumption held sufficient for conviction, recognized as such in the Mahomedan law under the denomination of ghalib-oo-zun, akbur-oo-raee, and Shoobah-i-cuvee or shoodeed. When the judge before whom a prisoner may be tried shall not consider him convicted on such presumptive proof, or on the evidence of credible witnesses, or on his own confession, he shall not sentence the prisoner to suffer any punishment, whatever may be the futwah of the law officer; but in cases of strong suspicion, though not amounting to conviction, as well as upon proof of notorious bad character, the *Judge of Circuit* may direct the *Zillah Magistrate** to detain the

Further explanation that no punishment is to be inflicted upon suspicion only or weak presumption of guilt not sufficient for conviction.

But *Courts of Circuit*, in cases of strong suspicion and notorious bad character, may direct security to be

* By Sec. xxxix., Reg. X., 1816, such parts of this clause, of Clause Fourth, Sec. viii., and Sec. xi., were specially declared applicable to the Criminal Judge only, whose duties are now discharged by the Subordinate Judge and Principal Sudder Ameen.

taken for future good behaviour and appearance

prisoner in custody until he shall give sufficient security for his future good behaviour and appearance when required. See Sec x, Reg. VI, 1827.

Courts of Circuit how to proceed in cases of conviction and discretionary punishment not specifically provided for by any regulation or by the Mahomedan law

Seventh. If the crime of which a prisoner is convicted, and for which he is declared liable to discretionary punishment, shall neither have been specially provided for by any regulation, nor by any stated penalty in the Mahomedan law, and the judge before whom the trial may be held shall consider the crime to have been established against the prisoner and deserving of punishment, he shall, after consulting with the law officer respecting the measure of punishment which, under the discretion left by the law and the whole of the circumstances of the case, should be inflicted upon the prisoner, adjudge the prisoner to suffer such punishment as may appear adequate to his guilt and the nature of the offence of which he is convicted, not exceeding corporal punishment of *thirty-nine stripes* and imprisonment with hard labour for the term of seven years. If in any instance this degree of punishment appear to the *Judge of Circuit* insufficient in a case not specifically provided by the Mahomedan law, or the regulations, he shall transmit the trial, with his sentiments thereupon, to the Court of Foujdarry Adawlut. See Reg VIII, 1828.

What persons shall be deemed guilty of the crime of robbing by open violence, and on conviction how punishable for such crime, with or without circumstances of aggravation

III. *First.* Any person or persons who shall in the day or in the night go forth with any offensive weapon, or in any gang with or without any offensive weapon, with the criminal intent of committing robbery, and shall by force or intimidation rob or attempt to rob any person or persons on or near a highway, or on a river, lake, or other water; or in or near a city, town, or village, or in any other place whatever; or shall attack by open violence and rob, or attempt to rob, any dwelling-house or other house or building, or any tent, boat, or other receptacle of persons or property, shall be deemed guilty of the crime of robbery by open violence (denominated in the Mahomedan law Suruca-i-Kobra, and more commonly Shub-Khonee or Dacoity), and on due conviction thereof, whether by free and voluntary confession, or by the testimony of credible witnesses, or by strong circumstantial evidence, shall be adjudged to suffer such of the penalties declared in the next section as may be applicable to the case; viz according as the robbery may be with or without homicide, wounding, maiming, or other personal injuries, or with or without other circumstances of aggravation.

In such cases, the punishment not to depend upon the property plundered, nor to be affected by any of the circumstances noticed in the preamble to this regulation, nor by any other provisions in the Mahomedan law, provided the party convicted be proper object of punishment

Second. In such cases of robbery by open violence, the punishment of the offenders shall not depend upon the amount, value, or description of the property plundered, nor shall any of the circumstances noticed in the preamble to the regulation as barring a sentence of hud under the Mahomedan law in cases of highway robbery, nor any other provision in that law, be hereafter allowed to operate against the punishment of persons convicted of highway robbery, or of any robbery by open violence as defined in the preceding clause of this section, or of murder or other acts of criminality committed in the prosecution of such robbery, or of an intent to rob; provided, as in all other cases of criminal conviction and punishment, that the party convicted be adult and of sound understanding, so as to render him a proper object of punishment.

Courts of Circuit, how to proceed upon the futwahs delivered by the law officer in all such cases.

Third. In all such cases of conviction of robbery by open violence, or of murder or other criminal acts done in prosecution of such robbery or of an intent to rob, if the law officer of the *Court of Circuit* declare the See Sec. iv., Act XXIV., 1843

prisoner liable to discretionary punishment, the judge before whom the trial may be held is to proceed as directed in Clause Second, Section II., of this regulation. If the law officer declare the prisoner liable to suffer death under the Mahomedan law, the judge is to refer the trial to the Court of Foujdarry Adawlut with his opinion, as directed by the existing regulations; or if the law officer declare the prisoner liable to amputation of limb under the Mahomedan law, the judge is either to refer the trial for the sentence of the Foujdarry Adawlut, or to commute the punishment and pass sentence against the prisoner in conformity to the ensuing section, according as the degree of punishment to be adjudged, or any provision in the regulations may require a reference of the trial for the sentence of the Foujdarry Adawlut, or otherwise.

See Sec. iv., Act XXIV., 1843.

What judgment to be passed in cases of murder committed in the prosecution of robbery or an intent to rob.

IV. *First.* All persons convicted of being the heads or leaders of a gang of robbers by whom a murder may have been committed, or of having been actively concerned in the perpetration of such murder, or of any murder committed in the prosecution of robbery, or an intent to rob, or of having been present aiding and abetting when such murder was committed, or, though not present, of having procured and caused by hire, counsel, or command, the perpetration of such murder in pursuance of a preconcerted plan to commit the same, or to commit robbery, shall be adjudged to suffer death.

Judgment to be given in cases of wounding, maiming, or other personal injury, torture or cruelty not occasioning homicide, or of arson, or other criminal and aggravating acts, committed in the prosecution of a robbery or intent to rob.

Second. All persons convicted of being the heads or leaders of a gang of robbers by whom any person may have been wounded, maimed, burnt, or subjected to other personal injury, torture, or cruelty, not occasioning homicide; or by whom a dwelling-house or houses may have been set on fire, or any other criminal and aggravating act committed in the prosecution of a robbery or intent to rob; as well as persons convicted of having been actively concerned in any of the acts aforesaid, done in prosecution of a robbery or intent to rob, or of having been present aiding and abetting when any such acts were committed, or though not present, of having procured and caused by hire, counsel, or command the perpetration of any such acts in pursuance of a preconcerted plan to commit the same or to commit robbery, shall be adjudged to suffer imprisonment and transportation for life. Moreover, any leaders of gangs or other heinous offenders convicted of a repetition of the crime described in this clause, or without such repetition, of a degree of cruelty, violence, or other aggravating criminality, which, under the discretion allowed by the Mahomedan law in cases of seeasut, may be punished with death, and which may appear to the Court of Foujdarry Adawlut to render such heinous offenders deserving of capital punishment, shall be liable to a sentence of death.

See Act XIV., 1844.

Provision for cases of repetition and other heinous cases within this clause.

Rescinded by Sec. ii., Reg. I., 1822, but revived by Sec. ii.; and see Sec. iii., Reg. I., 1825.

Judgment to be passed in cases of robbery or an attempt to rob without homicide and without any personal injury or other act of aggravation.

Third. All persons convicted of being the heads or leaders of a gang of robbers by whom a robbery may have been committed without homicide, and without any personal injury or other act of aggravation, as specified in the preceding clause; or by whom any violent attempt shall have been made to commit such robbery, though not effected; as well as persons convicted of having been actively concerned in any such robbery or attempt to rob, or having been present aiding and abetting at such robbery or attempt to rob; or, though not present, of having procured and caused by hire, counsel, or command, the perpetration of such robbery or attempt to rob, in pursuance of a preconcerted plan for this purpose, shall be adjudged

Provision for cases of repetition, notorious bad character, aggravation of guilt, within this clause.

to suffer imprisonment and hard labour for the period of fourteen years. The Court of Foujdarry Adawlut are further empowered to extend their sentences to imprisonment and transportation for life upon any leaders of gangs, or other offenders, convicted of a repetition of the crime described in this clause, or without such repetition, if, from proof of the notorious bad character of the party convicted, or on consideration of any other circumstance appearing upon the trial to aggravate the guilt of any particular prisoner and evince the danger of his future depredations, if set at liberty, it shall, in the judgment of that court, be just and necessary to inflict a more severe punishment than imprisonment and labour for the term of fourteen years.

See Cl. 4, Sec. ii., Reg. I., 1825.

See Act XIV., 1844.

Judgment to be given against persons going forth to rob, but apprehended before they have committed robbery or made any attempt to rob.

Fourth. Persons convicted of going forth with a gang of robbers for the purpose of committing robbery, but apprehended before they have committed such, or have made any violent attempt for the purpose, so as to bring them within the provision contained in the preceding clause, shall be adjudged to suffer imprisonment and hard labour for such period, not exceeding seven years, as the circumstances of the case may appear to merit.

General provision for a mitigation of punishment under the several clauses of extenuation, or when the example may appear sufficient for the ends of justice without extending the full punishment to the whole of the prisoners convicted.

Fifth. Provided, with respect to all the crimes and degrees of punishment specified in the several clauses of this section, if from any extenuating circumstances which may appear on the trial before the [*Courts of Circuit or*] Court of Foujdarry Adawlut, the stated punishment shall in any particular instance appear too severe; or if, on consideration of the number of prisoners convicted of the same crime, and of any discriminative circumstances with respect to one or more of them, the example shall appear sufficient for the ends of justice without extending the full degree of the prescribed punishment to the whole of the prisoners convicted, it shall be competent to the Court of Foujdarry Adawlut, [*or to the Court of Circuit, if the trial be not referable under the regulations to the Foujdarry Adawlut,*] to mitigate the sentence in such cases as may be deemed just and expedient.

Rescinded by Cl. 1, Sec. iii., Reg. I., 1825.

Rescinded by Cl. 1, and see Cl. 2 and 3, Sec. iii., Reg. I., 1825.

Further provision for the cases of any prisoners who may appear proper objects of mercy and pardon.

Sixth. The *Courts of Circuit* are also to report to the Foujdarry Adawlut, and the court, if it appear necessary, will report to the Governor in Council, the case of any prisoner or prisoners who may appear proper objects of mercy and pardon; or if the punishment to which they are sentenced shall not have been adjudged under any provision of the Mahomedan law, or the regulations expressly requiring the same, the Court of Foujdarry Adawlut as already authorized may remit the punishment, and order the discharge of the prisoner, without reporting the case for the orders of the Governor in Council.

See Sec. vi., Reg I., 1825.

Preceding section not applicable to larceny without open violence, whether accompanied with burglary or simple theft from the person or house.

The Mahomedan law, with the modification of it in the existing regulations and section ii. of this regulation, to govern the sentences of the criminal courts in such cases.

V. *First.* No part of the preceding section shall be considered applicable to secret theft or larceny without open violence (suruca-i-soghra), whether accompanied with burglary (nucub-zunee) or simple theft from the person or house unaccompanied with any aggravating circumstances. In such cases the Mahomedan law, with the modifications of it in the existing regulations and the rules contained in Section II. of this regulation when the prisoner may be declared liable to discretionary punishment, shall govern the sentences of the *Courts of Circuit*, as well as of the Foujdarry Adawlut in any cases referred to that court.

Explained by Sec. ii., Reg. VI., 1827.

See Sec. vii., Reg. X., 1816, and Sec. iii., Reg. VI., 1822.

But murder, or wounding, or other personal injury, and

Second. But in the case of a burglarious entry, or any entry by night into a dwelling-house or other house, or into a tent, boat, or other receptacle of

See Sec. ii., Reg. VI., 1822.

persons and property for the purpose of committing theft therein, although such entry may have been made in the first instance without any open violence, if any person or persons shall, after having entered, be guilty of murdering, wounding, maiming, torturing, or otherwise doing personal injury to any person or persons, or of any other criminal act of violence done in the prosecution of the original intention to commit theft, the parties convicted as principal or accomplices of such murder, wounding, maiming, or other acts of criminality and violence done in the prosecution of theft, shall be liable to the same punishment as has been declared in the preceding section for the same acts of criminality committed in prosecution of robbery by open violence; and the several provisions contained in that section, as well as in Section III. of this regulation, are accordingly declared equally applicable to the cases herein specified.

any other criminal acts of violence done in prosecution of an original intention to commit theft declared liable to the same punishment as specified in the preceding section for the same acts of criminality committed in prosecution of robbery by open violence.

VI. *First.* The *Courts of Circuit* shall transmit to the Court of Foujdarry Adawlut, as heretofore, all trials in which the prisoner or prisoners may be convicted and liable to a sentence of perpetual *imprisonment* or death; as well as in all cases wherein the judges of the *Courts of Circuit* may disapprove the futwah given by their law officers, and may not have been expressly authorized by this or any other regulation to pass sentence notwithstanding such futwah, either for the punishment of the prisoner, or for his acquittal and discharge, either with or without security.

See Act XIV., 1844.

What trials shall be hereafter transmitted by the *Courts of Circuit* to the Foujdarry Adawlut.

Second. In trials referable to the Foujdarry Adawlut, if the *Judge of Circuit* disapprove the futwah given by his law officer, or if the prisoner or prisoners convicted, or any of the prisoners convicted, on the same trial be liable to a sentence of death, the judge shall not pass any sentence (except for the acquittal and discharge of any prisoners not convicted), but shall transmit the trial, with his opinion thereupon, for the sentence of the Foujdarry Adawlut. If the *Judge of Circuit* concur with his law officer in the conviction of the prisoner or prisoners, and none of them be liable to a sentence of death, the judge shall pass sentence on the prisoner or prisoners. But such sentences in all trials referable to the Foujdarry Adawlut shall not be deemed final, nor shall any warrant be issued for carrying the same into execution until they be confirmed by the Court of Foujdarry Adawlut. Moreover, whenever the trial of a principal in any crime may be referred for the sentence or confirmation of the Foujdarry Adawlut, whether under the present or any other regulation, and an accomplice in the same crime shall have been brought on trial and convicted at the same time with the principal, the *Courts of Circuit* shall not carry into execution their sentence upon the accomplice so convicted, but shall wait the confirmation or final sentence of the Foujdarry Adawlut, as well respecting the accomplice as the principal. Provided, however, that this restriction be not understood to prevent the judges of the *Courts of Circuit* from directing the release of any prisoners charged as accomplices whom they may acquit of such charge, in concurrence with their law officer, notwithstanding the reference of the trial of the principal to the Court of Foujdarry Adawlut.

In what trials referable to the Foujdarry Adawlut the *Judge of Circuit* is not to pass sentence.

In what trials referable to the Foujdarry Adawlut the *Judge of Circuit* is to pass sentence.

Such sentences not to be deemed final nor put in execution till confirmed by the Foujdarry Adawlut.

Sentences upon accomplices convicted with principals, whose trials may be referred to the Foujdarry Adawlut, also subject to the confirmation or final sentence of the Foujdarry Adawlut.

But this restriction not to prevent a final sentence of acquittal upon prisoners not convicted before the *Court of Circuit* or the release of such prisoners.

Third. Whenever the judges of the *Courts of Circuit* may refer to the Court of Foujdarry Adawlut the trial of a prisoner or prisoners whom they may consider proper objects of capital punishment under Clause Second of Section IV. of this regulation, or of *imprisonment* for life under Clause

See Act XIV., 1844.

Rule to be observed by the *Judges of Circuit* in referring to the Foujdarry Adawlut the trial of any prisoners whom they may con-

sider proper objects of an extension, mitigation, or remission of punishment under Section IV. of this Regulation, or in any case whatever.

Third of that section, or of a mitigation of punishment under Clause Fifth of that section, or of an extension, mitigation, or remission of punishment in any case whatever, they shall be careful to notice the same in their letters accompanying the trials referred, and shall state at large the grounds of their judgment, whether for or against the prisoner, with such of the facts and circumstances in evidence upon the trial as may be necessary to explain the case of the prisoner whose punishment is proposed to be extended, mitigated, or remitted.

Futwah to be given by the law officer of Foujdarry Adawlut in all cases of discretionary punishment.

VII. *First.* In all trials transmitted by the *Courts of Circuit* to the Court of Foujdarry Adawlut in which the Mahomedan law officers of that court may consider the prisoner or prisoners liable to discretionary punishment, they shall declare the same generally, with a statement of the grounds on which the prisoner or prisoners may be adjudged by them subject to discretionary punishment, leaving the measure of punishment in such cases to be determined by the judges of the Foujdarry Adawlut under the provisions contained in this or any other existing regulation.

See Act I., 1840, Secs. xxxiii. & xxxiv., Act VII., 1843, and Act XIV., 1844.

Provision for such cases in Clauses Second to Sixth of Section II. of this regulation declared equally applicable to trials before the Foujdarry Adawlut as in the same cases before the *Courts of Circuit*, with mode of proceeding to be observed by the Foujdarry Adawlut in such cases.

Second. The several provisions made by Clauses Second, Third, Fourth, Fifth, and Sixth of Section II. of this regulation, for the guidance of the *Courts of Circuit*, in cases wherein their law officers may declare a prisoner or prisoners liable to discretionary punishment, and whenever a specific punishment may have been fixed and declared by the regulations; or wherein the specific penalties of the Mahomedan law may be withheld on the ground of the evidence against the prisoner not being such as the law requires for a sentence of hud or kissaas, though sufficient to convict the prisoner on strong presumptive proof; or wherein the sentence of hud or kissaas is barred against the prisoner, though fully convicted, by some special exception or distinction not affecting the nature and criminality of the offence, and evidently repugnant to the principles of equal justice,—shall be considered equally applicable to all cases of the same description wherein the law officers of the Foujdarry Adawlut, in any trials before that court, may declare the prisoner or prisoners liable to discretionary punishment; and the judges of that court are to pass sentence accordingly, after taking a second futwah from their law officers in cases which may require it.

Authority of the Foujdarry Adawlut to pass sentence, not extending to capital punishment, in trials referred under Clause Seventh, Section II. of this regulation: viz., when the crime may not have been specifically provided for by the regulations or by the Mahomedan law, but is punishable at discretion under that law.

Third. In trials referred to the Foujdarry Adawlut under Clause Seventh, Section II. of this regulation, viz. when the crime of which the prisoner is convicted, and for which he is declared liable to discretionary punishment, shall not have been specifically provided for either by the regulations, or by any stated penalty in the Mahomedan law, the judges of the Foujdarry Adawlut, provided the offence be punishable at discretion under the Mahomedan law, and they shall be satisfied of the conviction of the prisoner, are authorized to pass such sentence upon the prisoner, not extending to capital punishment, as they may deem adequate to the crime of which he is convicted, and consonant to the general principles of justice, on due consideration of all the circumstances of the case.

The court at the same time to propose a *regulation* to fix and declare the specific punishment of any crime of magnitude, if it appear requisite.

The court shall at the same time propose to the Governor in Council a *regulation* to fix and declare the specific punishment of any crimes of magnitude which may be found not to have been specifically provided for either by the Mahomedan law, or by the regulations, and which may appear to call for an express denunciation of the penalty to be incurred by committing the same.

See Note to Reg. I., 1802.

Fourth. The provisions contained in Sections III., IV., and V. of this regulation shall govern the sentences of the Court of Foujdarry Adawlut in the cases therein specified; and the judges of the court are authorized to adjudge the stated punishment, whatever may be the futwah of their law officers, provided that it shall declare the prisoner or prisoners to have been convicted of the crimes incurring the stated penalties, either on free and voluntary confession, or on the testimony of credible witnesses, or on strong circumstantial evidence (sufficient to establish ghalib-oo-zun or violent presumption of guilt), and provided the judges of the Foujdarry Adawlut shall see no cause to disapprove such conviction of the prisoner or prisoners, or to mitigate or remit the specified punishment.

The provisions in Sections III., IV., and V. of this regulation to govern the sentences of the Foujdarry Adawlut in the cases therein specified.

Fifth. In cases not incurring capital punishment, where a prisoner may be declared by the futwah of the law officer to the *Court of Circuit* to have been convicted, and the *Judge of Circuit* before whom the trial has been held shall concur in considering the guilt of the prisoner to have been proved, and shall consider the prisoner a proper object of the punishment to which he is liable under the Mahomedan law or the regulations, and shall pass sentence upon him accordingly (as required in such cases by Clause Second of Section VI. of this regulation), and the law officers of the Foujdarry Adawlut, on consideration of the proceedings held upon the trial, shall also be of opinion that the guilt of the prisoner has been established, and the sentence passed upon him by the *Judge of Circuit* shall appear to the Foujdarry Adawlut to be conformable to the regulations, it shall be competent to the *Judges* of the Foujdarry Adawlut to confirm the sentence so passed upon the prisoner by the *Court of Circuit* and confirmed by the futwah of their law officers, and found conformable to the regulations, without a revision of the proceedings held upon the trial, except in cases which for any special reason or purpose of justice may appear to require it. Provided that in all cases wherein the prisoner or prisoners, or any prisoner included in a trial referred to the Foujdarry Adawlut, may be liable to capital punishment, as well as all other cases wherein the *Judge of Circuit* before whom the trial is held may not concur in the conviction of the prisoner declared by the futwah of his law officer, or may not consider the prisoner, though convicted, a proper object of the punishment to which he is liable by the Mahomedan law and regulations, or in which the law officers of the Foujdarry Adawlut may not confirm the conviction of the prisoner declared by the law officer of the *Court of Circuit*, or in which the sentence passed by the *Court of Circuit* may not appear conformable to the regulations, or in which any special reason or purpose of justice may appear to require a revision of the trial, the *judges* of the Foujdarry Adawlut shall revise and consider the whole of the proceedings held upon the trial, and shall pass sentence accordingly.

In what cases the judges of the Foujdarry Adawlut may confirm the sentence passed upon a prisoner by *Court of Circuit* and confirmed by the futwah of the officers of the Foujdarry Adawlut without a revision of the proceedings held upon the trial.

See Sec. xxxiv., Act VII., 1843.

In what cases the judges of the Foujdarry Adawlut are to revise the whole of the proceedings held upon the trial, or, in cases not capital, so much thereof as may be requisite for a full judgment on the case in reference.

VIII. *First.* So much of Section XVIII., Regulation VIII., A.D. 1802, as authorizes the transportation to some place beyond sea of convicts sentenced to confinement for a term of seven years, or for any limited term of years, and directs a reference from the *Courts of Circuit* to the Foujdarry Adawlut, in all instances wherein they shall consider offenders convicted before them to be proper objects of transportation, is hereby rescinded.

Part of Section XVIII., Regulation VIII., A.D. 1802, rescinded.

Transportation beyond sea restricted to convicts sentenced to confinement for life, and to be adjudged against such convicts if deemed proper objects of transportation by the court passing sentence upon them.

Second. Transportation beyond sea shall be hereafter restricted to convicts who may be sentenced to confinement for life, and in all instances wherein a sentence of confinement for life may be passed against a prisoner, whether by the *Courts of Circuit* in the first instance, or finally by the Court of Foujdarry Adawlut, the court passing such sentence, if it deem the prisoner a proper object of transportation beyond sea, shall at the same time adjudge him or her to be transported for life.

Modified by Act XIV., 1844. See also Cl. 3, Sec. ii., Reg. I., 1825.

Convicts sentenced to confinement for life, but not considered proper objects of transportation beyond sea, as well as all convicts sentenced to imprisonment for a limited period, may be adjudged, by the court passing sentence upon them, to be banished during their sentences from the district in which their place of abode is situated, and kept to hard labour in any other district, as directed by the Foujdarry Adawlut.

Third. In the cases of convicts sentenced to confinement for life whom the *Courts of Circuit* and Foujdarry Adawlut may not consider proper objects of transportation beyond sea under the preceding clause, as well as in all cases of convicts sentenced to imprisonment for a limited period, the court by whom the sentence is passed, if it deem the same proper on consideration of the prisoner's offence, may adjudge him to be banished during the period of his sentence from the district in which his place of abode is situated, and to be kept to hard labour on the public roads or other public works in any other district to which he may be removed by order of the Foujdarry Adawlut.

Modified by Act XIV., 1844.

Reports to be made by the *zillah magistrate* to the Foujdarry Adawlut of convicts sentenced to transportation or to banishment under the two preceding clauses.

Fourth. The *magistrates* of the several zillahs, *at the close of the half-yearly jail-delivery of their respective districts*, the 1st January and 1st July of each year, or at any other period when the same may be required by the Foujdarry Adawlut, shall transmit to that court a list of the convicts in their respective jails who may have been sentenced to transportation beyond sea, or to banishment from the district in which the offenders may have resided under each of the two preceding clauses, specifying in such lists the names, ages, crimes, and sentences of the several convicts; and in the list of those sentenced to banishment, the district in which they may have usually resided before they were brought to trial.

See Note at Cl. 6, Sec. ii., of this Reg., and Secs. xlviii. and xlix., Act VII., 1843.

Further declared competent, as heretofore, to order the removal of convicts under sentence of imprisonment to any jail or district within the Company's possessions.

Fifth. The Court of Foujdarry Adawlut is declared competent, as heretofore, under the discretion allowed by the Mahomedan law, to order the removal of all convicts under sentence of imprisonment to any jail or district within the Company's possessions in which it may be thought proper to keep or employ them during the period of their respective sentences, although no specific sentence of banishment may have been passed against them under Clause Third of this section. But no such removal shall take place without the special order of the Court of Foujdarry Adawlut.

IX. *First.* [Convicts escaping from confinement to be tried and punished on re-apprehension.]—*Rescinded by Section V., Regulation VI.*, 1822.

Convicts under sentence of transportation for life, who may be transported after the promulgation of this regulation and shall escape and return without permission to any part of the Company's territory under the presidency of Fort St. George, declared liable, on conviction, to suffer death.

Second. Any convicts under sentence of transportation for life who may be transported to any place beyond sea after the promulgation of this regulation, and shall escape from such place of transportation and return without permission to any part of the Company's territory under the Presidency of Fort St. George, shall (notice of this penalty being duly made to the convict at the time of passing sentence on him) on conviction thereof to the satisfaction of the Foujdarry Adawlut, and if no circumstances appear to that court to render such convict an object of mercy, be adjudged to suffer death.

X. [Foujdarry Adawlut may commute the sentence of transportation to banishment in cases tried before the passing of this regulation.]—*Expired.*

See Secs. ix., x, and xi., Reg. VI, 1827.

See Note at Cl 6, Sec. ii., of this Reg, and Secs. xlviii. and xlix, Act VII., 1843.

Provision for the cases of prisoners required by the *Courts of Circuit* or Foujdarry Adawlut to give security for their future good behaviour and appearance and who may be unable to find such security, but from their behaviour whilst in confinement and other circumstances may appear to the magistrate proper objects of release without security under a penal engagement for their future good conduct.

XI. *First.* In the cases of suspicion or bad character referred to in Clause Sixth, Section II. of this regulation, wherein the *Courts of Circuit* may direct the *zillah magistrates* to detain prisoners in custody until they give sufficient security for their future good behaviour and appearance when required, as well as in any similar cases wherein the like directions may be given by the Court of Foujdarry Adawlut, if any prisoner shall have remained in confinement for a year or any longer period, under inability to give the security required, and the execution of a moochulka (penal engagement) by the prisoner for his future good conduct, without security, may, on consideration of the circumstances of the case and the prisoner's behaviour during his confinement, appear to the *magistrate* sufficient to provide for the object intended, he shall report the same to the *Court of Circuit at the next ensuing jail-delivery* for the zillah in which such prisoner may be detained in custody.

Report to be made by the magistrate to the *Court of Circuit* in such cases.

Courts of Circuit how to proceed on receiving such report.

Second. In all cases of such reports being made by the zillah *magistrate* to the *Courts of Circuit*, the judges of the latter are to call the prisoner before them, and to examine the proceedings held upon his trial, as far as may be necessary to ascertain the grounds on which the prisoner may have been required to find security, after which, and duly considering the circumstances stated in the *magistrate's* report, if they shall concur with the latter in opinion that the prisoner ought to be released on his moochulka without security, they are to direct the same accordingly.

Considerations to be attended to by the magistrates and *Courts of Circuit* in the exercise of the discretion vested in them by this section.

Third. In the exercise of this discretion, the *magistrates* and *Courts of Circuit* will of course give due consideration to the nature of the crime of which the prisoner may have been convicted or suspected, his general character as far as ascertainable, and the consequent risk to be apprehended from his being released without security for his future good conduct.

A.D. 1803. REGULATION XVI.

A REGULATION *for suspending the Operation of the Custom Regulations in certain cases:* PASSED *by the Governor in Council of Fort St. George, on the* 30*th December,* 1803.

[Rescinded by Clause 1, Section XVIII., Regulation II., 1812.]

A.D. 1804. REGULATION I.

A REGULATION *for levying, for a limited period, an Additional Duty on Betel and Tobacco imported into Madras:* PASSED *by the Governor in Council of Fort St. George, on the* 10*th of February,* 1804.

[Rescinded by Clause 1, Section IX., Regulation III., 1812.]

A.D. 1804. REGULATION II.

A REGULATION *for appointing Registers to Collectors in certain cases, and for Determining the Rules under which the Duties of the Office are to be performed:* PASSED *by the Governor in Council of Fort St. George, on the* 14*th February,* 1804.

[Superseded by Regulation II., 1806, which abrogated the judicial powers vested in Collectors by Regulation II., 1803, and established Zillah Courts in districts wherein the land revenue was not permanently settled.]

A.D. 1804. REGULATION III.

A REGULATION *for transferring the Toomedy Estate to the Jurisdiction of the Zillah Court of Masulipatam:* PASSED *by the Governor in Council of Fort St. George, on the* 23*rd March,* 1804.

[Superseded by Regulation I., 1821, and Section LIII., Act VII., 1843.]

A.D. 1804. REGULATION IV.

A REGULATION *for transferring the Zillah of Salem from the Jurisdiction of the Provincial Court of Appeal and Circuit for the Centre Division to that of the Provincial Court for the Southern Division, and for Rescinding Regulation IV. of* 1803: PASSED *by the Governor in Council of Fort St. George, on the* 24*th April,* 1804.

[Superseded by Regulation I., 1821, and Section I., Act VII., 1843, except the following Section.]

V. Regulation IV. of 1803 is hereby rescinded.

A.D. 1804. REGULATION V.

[FRAMED UPON REGULATION X., 1793, OF THE BENGAL CODE.]

A REGULATION *for constituting a Court of Wards, for declaring the Powers vested in the said Court, and for defining the Rules under which those Powers are to be exercised:* PASSED *by the Governor in Council of Fort St. George, on the* 28*th August,* 1804, *corresponding with the* 15*th Avany,* 1726*th year of Saliwahana, and with the* 21*st Jamadi-al-aval,* 1219 *Hijra.*

WHEREAS sundry persons, being the legal inheritors of property, have been and may hereafter be incapacitated by minority, sex, or natural infirmity from taking charge in their own behalf of such property, by reason whereof the said property has been liable to be transferred to the custody and management of other persons, not being liable to due responsibility or control; and whereas instances have frequently occurred wherein such temporary managers have abused the trust to which they have succeeded, by neglecting the interests or by the fraudulent dilapidation of such property, to the great injury and distress of the persons on behalf of whom the said trusts have been undertaken; and whereas it is expedient and necessary that secure and efficient means should be established, under the sanction of public authority and of legal provisions, for the due preservation of the property of incapacitated persons, the education of minors, and the care of the persons of lunatics and idiots—wherefore the Governor in Council has been pleased to establish a Court of Wards for those purposes, under the following regulations:—

Court of Wards to consist of the members of the Board of Revenue at the Presidency for the time being.

II. The Court of Wards shall consist of the members of the Board of Revenue at the Presidency for the time being, and shall possess full power and authority to take cognizance of all cases of property devolving

To take cognizance of all cases of property devolving to incapacitated heirs

To appoint persons to the management of the property; to the education of minors; to the care of lunatics, &c

To render persons so appointed responsible for the proper execution of their trust

Not to exercise any power of superintendence until the authority of the Governor in Council shall have been signified in writing for that purpose

Power of the court not to extend to the property of persons not paying revenue to Government

to heirs incapacitated by minority, sex, or natural infirmity from administering their own affairs. The Court of Wards shall also possess power to select and appoint proper persons to the custody and management of property so situated, to the education of minors, and to the care of lunatics and idiots (as the case may happen), taking due means to secure and to render the persons so to be selected and appointed responsible for the proper execution of the trust reposed in them: provided, nevertheless, that the said Court of Wards shall not proceed to exercise any power of superintendence over the persons or property of incapacitated persons until each separate case, together with all the circumstances connected, shall have been submitted to the Governor in Council, and until the authority of the Governor in Council shall have been signified in writing for the exercise of the said powers by the Board of Revenue, acting in its capacity of the Court of Wards; and provided further, that the power of the Court of Wards shall not extend in any case to the property of persons not paying directly rent or revenue to Government.

See Sec. ii, Act XIX, 1841.

Collectors to report each case of property devolving to incapacitated heirs

III. *First.* Where property charged with the direct payment of rents or revenues to Government shall devolve, by inheritance, to persons incapacitated by minority, sex, or natural infirmity from taking charge of the said property on their own behalf, it shall be the duty of collectors to transmit, without delay, to the Board of Revenue, in their capacity of Court of Wards, a written report (founded on personal inquiry or on the testimony of credible persons, according to the nature of the case), describing all the circumstances of each particular case; whereupon the Board of Revenue shall state such cases, together with their opinion and judgment, to the Governor in Council, to the end that the decision and orders of the Governor in Council may be passed thereon.

See Cl 2, Sec. ii, Reg X., 1831.

Court to state the cases with their opinion, to the Governor in Council.

Females not incapacitated by their sex

Court of Wards competent, on proof of ability and discretion, to put females in the government of their property

Second. It shall nevertheless be competent to the Court of Wards, upon due and sufficient proof of the means, ability, and discretion of females who may succeed to the possession of property by inheritance, gift, or otherwise, to regulate their own affairs, to put the said females respectively in the possession and management of their property.

Minors not in any case competent to administer their own affairs

Duration of minority to extend to the completion of the eighteenth year

IV. Where minors may succeed to inheritable property, they shall not, in any case, be competent to take charge of or to administer their own affairs during the period of their minority; and for the better understanding thereof, the duration of minority shall, without exception, continue until the completion of the eighteenth year of age.

Persons incapacitated by any natural infirmity succeeding to property by inheritance not competent to administer on their own behalf.

V. Persons succeeding to property by inheritance, but being incapacitated by lunacy, idiotism, or other natural infirmity, shall in no instance take charge or administer the affairs of such property on their own behalf.

See Act XIX, 1841.

Proceedings of the court to be founded, in the first instance, on the reports of the collectors.

Collectors liable to prosecution for making reports upon insufficient grounds.

VI. The proceedings of the Court of Wards shall, in the first instance, be founded on the reports of the collectors respectively, to the end that no delay may occur in providing for the due security and management of the property of persons incapacitated by minority, sex, or natural infirmity; but collectors making such reports upon insufficient authority, whereby inheritors of property shall be deprived of the possession and management

of the said property on their own behalf, shall be liable to prosecution in the Courts of Adawlut, either at the instance of the parties injured or of the Court of Wards; and upon proof that such undue reports have been made through negligence, or for malicious purposes, awards of damages, together with costs, shall be granted against collectors so offending.

And if proved to be made for malicious purposes, to damages with costs.

First. Where persons being under the description of females, minors, lunatics, or idiots, and being by reason thereof deprived of the possession or management of their property, shall see reason to dispute the grounds on which the reports of the collectors in the cases respectively may have been framed, shall observe the following process, to the end that immediate relief may be obtained.

Disqualified persons seeing reason to dispute the grounds on which they may have been excluded from the management of their property, how to procure redress.

Second. Such persons shall respectively lay their cases, together with the evidence and documents in support thereof, before the *judge of the zillah*, who shall in the first instance be competent to receive and entertain all such claims.

To submit the case, together with the evidence and documents in support thereof, to the *judge of the zillah.*

Third. Judges of zillahs shall transmit, with all reasonable expedition, copies of such cases, together with copies of the evidence and documents in support thereof, to the Court of Sudder Adawlut; whereupon the Court of Sudder Adawlut shall immediately issue a precept to the *Courts of Appeal*, or to the *judges of zillahs* (as it shall seem fit), to bring the parties complaining before those courts respectively.

Judges of zillahs to transmit, with all reasonable expedition, copies of such cases and of the evidence and documents, to the Sudder Adawlut.

Sudder Adawlut to issue precepts to the Courts of Appeal or *zillah judges* to bring the parties complaining before them.

Fourth. The courts so empowered shall make ocular observation in open court of persons so complaining, and shall further take in writing the *oaths* of not less than three credible persons well acquainted with the said parties complaining, setting forth their knowledge and belief of the facts and circumstances connected with the cases respectively, whereupon the inferior courts so empowered shall transmit to the Court of Sudder Adawlut the whole proceedings, together with the opinion of the said inferior court on such cases, the decision of which court shall in every instance be final, and certificates of these decisions shall be furnished by the Court of Sudder Adawlut to the Governor in Council, for the guidance of the Board of Revenue.

The court to take ocular observations of the persons complaining in open court.

To take the *oaths* of three credible persons, well acquainted with the parties, setting forth their knowledge and belief of the facts connected with the cases respectively.

The inferior courts to transmit to the Sudder Adawlut the whole proceedings, together with their opinion on the case.

Fifth. Provided that females shall be at liberty to avail themselves, at their own risk, of the law and of the usages of the country to avoid personal appearance in court.

Females at liberty to avail themselves of the law and usage of the country to avoid personal appearance in court.

Sixth. Provided also, that in cases of lunacy or idiotism where reason may exist for supposing the cause of the malady removed, it shall be competent for the parties concerned to appear, or for the inferior courts to bring the said parties before the Courts of Adawlut from time to time, and upon due proof of the removal of the disqualification, the inferior courts shall observe the process hereinbefore described for bringing such cases under the Court of Sudder Adawlut.

In cases of lunacy or idiotism, where reason may exist to suppose the cause of the malady removed, it shall be competent for the inferior courts to bring the parties before them from time to time, and, upon due proof of the removal of the disqualification, to observe the forms before described for bringing the cases under the Sudder Adawlut.

VIII. *First.* Where the property of persons incapacitated as aforesaid may, on the decision of the Governor in Council, be committed to the care of the Court of Wards, the said court shall select and nominate persons duly qualified to manage the affairs of persons so situated.

Where the property of persons incapacitated shall, by the decision of the Governor in Council, be committed to the care of the Court of Wards, the court to select persons duly qualified to manage the property.

Second. Collectors shall in the first instance recommend proper persons to be appointed managers.

Collectors in the first instance to recommend proper persons.

Females free to include or exclude their own husbands in their recommendation of managers.

Third. Females shall be free to include or exclude (as they may themselves see fit) their own husbands in their recommendation of persons to be appointed managers of their separate property.

The recommendations to be accepted by the Court of Wards.

When there may be reason to reject such recommendations, the cases shall be decided by the Governor in Council.

Fourth. The aforesaid recommendations, being duly made, shall be accepted by the Court of Wards; provided that, when the said court shall see due and sufficient reason to reject such recommendations, the cases respectively shall be finally decided by the Governor in Council.

Guardians of minors not eligible to be appointed managers of their property.

IX. Persons being guardians of minors shall not in any case be eligible to be appointed managers of the property of the said minors.

Persons appointed to manage the property of incapacitated persons to give security for their personal appearance during the course of the management.

X. Persons appointed to manage the property of incapacitated persons shall give good and sufficient security for their personal appearance during the course of their management, and shall execute the following obligation: that is to say,

Obligation to be executed.

"I, A. B., having voluntarily taken upon myself the management of the property of C., incapacitated proprietor of D., do hereby solemnly promise and engage to manage the said property diligently and faithfully for the said proprietor; and to use all the means in my power to improve the property for the benefit of the owner. I also promise and engage to render a true and just account of my administration, and to be answerable for all embezzlement or misapplication of the property, to the extent of three times the amount which may be proven to have been embezzled or misapplied during my management. And I further engage to adhere to such regulations as have been, or may hereafter be, framed for the guidance of managers by the Court of Wards, and to abstain from all other advantage, directly or indirectly, than the allowance granted to me from the property committed to my charge under the authority of the Court of Wards.

Managers having executed the obligation, to be furnished by the collectors with a public commission.

XI. *First.* Managers, having executed the aforesaid obligation, shall be furnished by the collectors respectively with public commissions of management, under the seals and signatures of the said collectors.

An allowance to be granted to managers proportioned to the extent of the trust, to be fixed by the Court of Wards on the recommendation of the collectors.

Second. An allowance (to be specified in the commission) shall be granted to managers, which shall be proportioned to the extent of the trust, and shall be fixed by the Court of Wards, on the recommendation of collectors, as adequate compensation for the trouble and responsibility of the management.

Court of Wards empowered to enforce the penalty of the obligation or dismiss managers.

Third. The Court of Wards shall possess authority, in cases where managers may be proven to have abused their trust, to enforce the penalty of the obligation, and to dismiss such managers from their charge; provided that all such amercement shall be carried to the account of the property in trust.

Amercements to be carried to the account of the property in trust.

Such decision not to preclude the managers from instituting suits in the Courts of Adawlut for the recovery of the amount of the penalty.

Fourth. But such decisions of the Court of Wards shall not preclude managers who may consider themselves to be aggrieved from instituting suits in the Courts of Adawlut for the recovery of the amount of the said penalty.

Managers to nominate the several officers and appoint their salaries, subject to the revision of the collectors and confirmation or rejection of the Court of Wards.

Fifth. Managers shall have power to nominate the several officers, and to appoint their salaries requisite for the administration of property in trust, subject, however, to the revision of collectors, and to the final confirmation or rejection of the Court of Wards.

Sixth. Subordinate officers so chosen and appointed shall, upon proof of delinquency, be liable to punishment in the same manner as the principal managers.

Subordinate officers liable to punishment in the same manner as principal managers.

XII. *First.* Managers duly appointed shall have the entire charge of the estates real and personal of the incapacitated proprietors, including all malguzary and lakhiraj lands; and all houses, tenements, goods, and moveable property, excepting only the house in which the proprietors may reside, together with the articles of moveable property required for the use and comfort of the said proprietors.

Managers duly appointed to have entire charge of the estates, real and personal.

Exception.

Second. On receiving charge of their trust, managers shall furnish an exact inventory under their seals and signature, to be lodged with the collector, of the property which may be committed to their custody.

Managers on receiving charge to furnish an exact inventory, under their seal and signature, of all property committed to their custody.

Third. At the expiration of every year, managers shall deliver to the collectors respectively, true and faithful accounts of their receipts and disbursements; and the said collectors shall be responsible for the due appropriation of the surplus funds, in the manner hereinafter provided.

To furnish an annual account of the receipts and disbursements.

Collectors responsible for the appropriation of the surplus funds as hereinafter provided.

XIII. The assessment of lands being the property of incapacitated persons shall be fixed in the same manner as the assessment of other lands.

Assessment of lands belonging to incapacitated persons how to be fixed.

XIV. *First.* The entire sums of money received by managers from the lands under their charge shall be paid monthly to the collectors, who shall defray therefrom the authorized expenses of management.

Entire sums of money received by managers to be paid monthly to collectors, who shall defray the expenses of management.

Second. A sum equal to ten per cent. of the permanent assessment, or, when the whole permanent jumma may not be realized, a sum equal to ten per cent. of the revenue actually paid to Government, shall be allotted to the support of disqualified possessors of property, and of such parts of their families as may be entitled to maintenance at their expense.

A sum equal to ten per cent. of the permanent jumma, or of the amount paid to Government, shall be appropriated for the support of the disqualified proprietor.

Third. The said allowance shall be paid monthly by the collectors to the proprietors, or (as the case may be) to the guardians of the proprietors, for their use, in the proportion of the public revenue actually received from the property, and not otherwise, except as may be especially provided under Clause Fifth of this section.

The allowance to be paid monthly to the proprietors or their guardians.

*Fourth.** The lands of incapacitated proprietors shall not be answerable for the payment of the public revenue assessed thereon; and if the neat collections of any year should prove unequal to the discharge of the fixed assessment, the deficiency shall be made good by the surplus collections of future years; provided always, that the allowance for the support of the proprietors shall be paid as well in years of deficient as of surplus produce.

Lands of incapacitated proprietors not answerable for the payment of revenue: if the collections of one year fall short of the permanent assessment, the deficiency to be made good by the surplus collections of future years.

Provided that the allowance to proprietors be paid in all seasons.

Fifth. Where the said proportion of ten per cent. of the public revenue may afford a fund greater than shall be requisite for the suitable expenses of disqualified possessors of property and of their families, or where the same effect may be produced by the accumulation of property not assessed, it shall be competent for collectors to reduce at their discretion the said

Collectors to have a discretionary power of increasing or diminishing the proportion of the collection allowed to disqualified proprietors, reporting the same to the Court of Wards.

* This protection is extended to the estates of minors not under the Court of Wards, by Cl. 1, Sec. ii., Reg. X., 1831.

proportion of ten per cent.; and where the said proportion of ten per cent., together with the produce of the unassessed property of incapacitated possessors, shall be inadequate to the due support of the parties concerned, it shall also be competent for collectors at their discretion to augment the proportion payable from malguzary lands. Provided, however, that the exercise of the discretionary power shall be reported to the Court of Wards, and shall not be repeated after the first month without due authority had and obtained for the same.

The exercise of this discretion to be reported to the Court of Wards.

Not to be repeated after the first month without due authority.

Where the proportion of allowance may be reduced, the difference to be incorporated in the assets and employed for the benefit of the owners.

Sixth. Where the proportion of ten per cent. may be reduced, the difference shall be incorporated in the assets of the property, and employed for the benefit of the owners.

Managers not to grant leases for more than one year without the consent of the collector in writing.

Nor to dispose of any part of the property without the permission of the Court of Wards.

XV. It shall not be competent for managers of the property of minors to grant leases extending beyond the period of one year, without the consent of the collector had in writing; nor to dispose of any part of the property without the permission of the Court of Wards also obtained in writing.

The surplus receipts, after discharging the revenue of Government and paying all charges, how to be appropriated.

XVI. *First.* Where estates, being the property of incapacitated owners, may yield under management funds more than adequate to the payment of the public revenue, to the charges of management, and to the expense of maintaining the said owners, it shall be competent for the collectors to employ such surplus funds for the purpose of improving the said property, or in the purchase of land, or in the purchase of the public securities of Government; provided that such appropriation to be made of the said surplus funds shall have been previously approved in writing by the Court of Wards.

In cases of purchases, the collectors to transmit the deeds of security to the Court of Wards, to be deposited in the treasury of Government.

Second. In cases of purchasing as aforesaid, the collectors shall transmit the deeds of security, of whatever description, to the Court of Wards, for the purpose of being deposited in the treasury of Government.

Receipt to be granted by the collectors to the managers for the securities, and the deposits to be at the risk of Government.

Third. Receipts shall be granted by collectors to managers for such deeds of security on account of the owners, as may be deposited in the public treasury, and such deposits shall be at the risk of Government.

The interest accruing on public securities purchased for disqualified landholders receivable by collectors, who shall grant discharges for the same.

Fourth. The interest money accruing on the public securities which may be purchased on account of incapacitated possessors of property shall be receivable by the collectors respectively, to whom it shall be competent to grant discharges from the same.

The private debts of disqualified landholders to be liquidated by collectors.

The discharge of private debts not to interfere with the payment of the public revenue.

The permission of the Court of Wards to be obtained previously to the discharge of a private debt.

XVII. Where debts may be due to private creditors from the estates of disqualified proprietors, they shall be liquidated by the collectors respectively on the due substantiation of the said debts, and on demand of payment by the creditors; provided always, that the discharge of private debts shall not in any case interfere with the regular and complete payment of the public revenue assessed on such estates; and provided further, that the permission of the Court of Wards in writing shall have been had and obtained in every instance previously to the payment of any private debt.

Collectors to accompany their reports of disqualified landholders with description of their persons, value of the

XVIII. Where persons succeeding by right of inheritance to land or other property paying revenue directly to Government may happen to be incapacitated, by reason of sex, minority, or natural infirmity, from the

management of such property on their own behalf, collectors shall respectively accompany their reports of such cases to the Court of Wards, with a description of the conditions of the persons concerned, the value of the property devolving to them, and the names of persons most proper, in the judgment of them (the collectors), to be appointed guardians of the disqualified heirs; provided that guardians may not have been appointed for such disqualified heirs according to the will of persons authorized by law to make such appointment.

property, and names of the persons most proper to be appointed guardians.

Exception.

XIX. *First.* The Court of Wards shall proceed, according to the mode hereinbefore provided for the nomination of managers, to choose and appoint guardians of the disqualified persons.

The court, however, to proceed to appoint guardians.

Second. The next legal heir shall not in any case whatever be appointed guardian of a disqualified person.

The next legal heir in no case to be appointed guardian.

Third. Persons who may appear to have a direct or indirect advantage in the death or continued incapacity of the disqualified possessors of property shall not in any case whatever be appointed to be guardians of such disqualified possessors.

Persons who may appear to have an interest in the death or continued incapacity of the disqualified landholders not to be appointed guardians.

Fourth. Guardians of the female sex shall be appointed to female minors, and not otherwise.

Guardians of the female sex to be appointed to female minors, not otherwise.

Fifth. Possessors of property paying revenue directly to Government whose heirs may be incapacitated by sex, minority, or natural infirmity from managing such property, shall be free to choose and to nominate by will in writing, persons to be guardians of their heirs; and such nominations shall be valid, provided that the persons chosen shall be qualified and willing to accept the trust; and provided further, that such nominations shall be duly reported by the collector, and finally confirmed by the Court of Wards.

Persons free to appoint guardians to their heirs who may be incapacitated; such nominations to be reported to the collectors and confirmed by the Court of Wards under certain provisions.

XX.* In cases of estates held by joint possessors and subject to an undivided assessment of the public revenue, where one or more of the joint possessors may die, leaving heirs incapacitated by minority, sex, or natural infirmity from the management of their inheritance, without nominating by will guardians of the said heirs, the collectors respectively shall report the case to the *Court of Zillah;* and the court, upon such report from the collectors or from any other credible persons, shall proceed to examine the circumstances of the case, and upon due inquiry thereof shall nominate forthwith proper persons to be the guardians of such disqualified heirs, to the end that injury may not arise to the property or persons of the said heirs by reason of delay; provided that such nominations shall always be subject to the confirmation or rejection of the Court of Sudder Adawlut.

Cases in which the *Zillah* Courts may nominate guardians.

Subject to the confirmation of the Sudder Adawlut.

XXI.* *First.* Persons appointed to be guardians, and accepting the trust, shall give security for their personal appearance during the continuance of the said trust, and shall execute an obligation according to the following form; that is to say,

Guardians to give security for their personal appearance during the continuance of their trust.

"I, A. B., having voluntarily accepted the office of guardian of C., being

Obligation to be executed.

* Sections xx., xxi., and xxii. are extended by Sec. iii., Reg. X., 1831, to property not subject to the Court of Wards, and to heirs of *single* possessors of estates real and personal. This extension operates in modification of Sec. xvi., Reg. III., 1802, q. v.

the disqualified proprietor of D., do hereby solemnly promise and engage to execute the duties committed to me zealously and faithfully, to the best of my judgment, and according to the regulations; I will conscientiously appropriate the allowance granted for the maintenance and (if the ward be a minor) for the education of my ward, to the benefit of the said ward; and will abstain from all other advantage than what may be allowed to me by due authority, directly or indirectly arising from my office of guardian; I also engage to render true and faithful accounts of all moneys received by me on account of my ward, under the penalty of forfeiting treble the amount of any sums which may be proven to have been embezzled or misapplied; and I do hereby bind myself, my heirs and successors, to make good the said penalty upon due proof of my default."

Guardians to be invested with their trust by a public commission under the seal and signature of the collectors.

After executing this obligation, persons appointed to be guardians shall be invested with their trust by a public commission under the seal and signature of collectors of zillahs respectively.

A fixed salary to be allowed to guardians in certain cases.

To be fixed by the Court of Wards.

Second. Where persons may not be found, who by reason of consanguinity, friendship, or other good cause, may be willing to execute the office of guardian gratuitously, a fixed salary shall be allowed at the discretion of the Court of Wards, or of the *Zillah* Courts respectively, as the case may be, as a full compensation for the trouble and responsibility of the said office.

Guardians to receive the allowance appropriated to the use of their wards, and to appropriate the allowance at discretion for the use and benefit of the wards, subject to the control of the collectors, *judges of zillahs*, and ultimately of the Court of Wards and Sudder Adawlut.

Third. It shall be competent to guardians regularly appointed to receive the allowance appropriated to the use of their wards, and to appropriate the said allowance at their discretion for the good and benefit of the wards; subject, however, to the inspection and control of the collectors and *judges of the zillahs*, and ultimately of the Court of Wards and of the Court of Sudder Adawlut.

Powers of guardians to be the same, however they may be appointed.

Fourth. Guardians appointed under the authority of *judges of zillahs* and of the Court of Wards shall possess the same powers as guardians otherwise appointed.

Duration of the office of guardians.

Fifth. The duration of the office of guardian shall not continue longer than the eighteenth year of the age of wards being minors, provided that such wards may not be incapacitated by sex or natural infirmity from administering their own affairs.

Guardians to recommend proper servants to be employed in the service of their wards, subject to the approval of the collectors and Court of Wards, or to the *judges of zillahs* and the Sudder Adawlut in certain cases.

Sixth. Guardians shall choose and recommend proper servants to be employed in the service of their wards, subject to the approval of collectors of zillahs and of the Court of Wards, or, as the case may be, to the approval of the *zillah judges* and of the Court of Sudder Adawlut; provided that the expense of the wages of such servants shall be defrayed from the funds appointed for the maintenance of wards.

Expense of such servants, how to be paid.

Guardians to furnish monthly accounts to the collectors: such accounts liable to retrenchment.

Seventh. Guardians shall deliver monthly accounts to the collectors of their receipts and disbursements, which accounts shall be liable to revision and retrenchment by the said collectors.

Guardians to furnish annual accounts to the collectors supported by vouchers.

Vouchers, how to be authenticated.

Eighth. Guardians shall also furnish complete annual accounts to the collectors, supported by good and true vouchers, and attested [*on oath, unless the Court of Wards shall see proper to dispense with such oath, in which case such annual accounts shall be attested*] by a solemn declaration of their correctness.

Superseded by Act V., 1840.

Teachers to be appointed to minors at

Ninth. In cases of male minors, female relations shall not have charge

of such minors after they shall have respectively attained the age of seven years; at which age proper teachers shall be procured and appointed by the guardians for the education of their wards in a manner suitable to their rank and condition in life; provided that the appointment of the said teachers shall be subject to the approval of the Court of Wards, or, as the case may be, of the Court of Sudder Adawlut; and provided further, that the progress of the education of male minors shall be at all times liable to the inquiries and inspection of collectors, or, as the case may be, of *judges of zillahs*.

the age of seven years by the guardians, subject to the confirmation of the Court of Wards.

Or, in certain cases, of the Court of Sudder Adawlut.

The progress of the education of minors liable to inquiry by the collectors, or, in certain cases, to the *zillah judges*.

Tenth. The guardians of female minors shall also provide for the proper education of their wards.

Guardians of female minors to provide for the proper education of their wards.

XXII.* The guardians and managers of disqualified persons shall authenticate papers by their own seals and signatures, and not otherwise. The seals of wards, together with the seal of their deceased parents, shall be delivered to the collectors and lodged in their treasuries.

Guardians and managers to authenticate papers by their own seals and signatures.

The seals of wards and of their deceased parents to be delivered to collectors and lodged in their treasuries.

XXIII. *First.* Disqualified persons being in the custody of guardians shall not be liable to be sued on any action in Courts of Judicature, otherwise than as under the protection and in the joint name of their guardians.

Disqualified persons not liable to be sued but in the joint name of their guardians.

Second. But in cases of fraud, or supposed fraud, it shall be competent for disqualified persons, during the period of their disqualification, to employ proper agents to prosecute collectors, guardians, or managers before the Court of Wards; provided that such agents shall give due security for costs and damages; and provided further, that such agents shall receive the fines and costs which may be awarded.

Disqualified landholders may, in certain cases, prosecute collectors, guardians, or managers before the Court of Wards.

Their agents to give security for costs and damages.

To receive the fine and costs which may be awarded.

XXIV. *First.* In cases of fraud imputed to guardians or managers, it shall be competent for the Court of Wards to order inquiry to be made in the first instance by the collectors, and to pass judgment on the result of such inquiries.

The Court of Wards empowered to order an inquiry into the conduct of guardians and managers by collectors, and to pass judgment thereon.

Second. In such cases where the attendance of witnesses may be required, the collectors or the Court of Wards shall apply by writing to the Courts of *Zillahs*, to the end that the said witnesses may be duly summoned to attend; and it shall further be competent to the collectors and to the Court of Wards to administer *oaths*, if they see proper, to such witnesses, provided that the administration of such *oaths* shall be conformable to the rules and restrictions prescribed for the administration of *oaths* in the *Zillah* Courts.

When witnesses may be required by the Court of Wards, how to proceed.

Collectors and Court of Wards empowered to administer *oaths*.

Third. Copies, duly authenticated, of the judgment of the Court of Wards shall be transmited to the *Zillah* Courts respectively; and the said judgments shall be enforced in the same manner as if passed originally by the said *Zillah* Courts.

Copies of the judgments of the Court of Wards to be transmitted to the *Zillah* Courts.

How to be enforced.

Fourth. An appeal shall lie from such judgments directly to the Sudder Adawlut, provided that the appeal be preferred to the Court of Wards, or to the *Zillah* Courts, or to the Sudder Adawlut, within three calendar months next subsequent to the date of judgment.

An appeal open to the Sudder Adawlut.

Mode and time of application.

See Sec. viii., Act VII., 1843.

Fifth. It shall nevertheless be competent for the Court of Sudder

Sudder Adawlut empowered, in certain

* See Note at Sec. xx.

cases, to dispense with the limitations.

Adawlut to dispense with the said limitation with respect to appeals preferred to the Sudder Adawlut only, upon good and reasonable grounds shewn for the delay.

Disqualified landholders not to adopt children without the consent of the Court of Wards.

XXV. It shall not be competent for disqualified landholders to adopt children without the consent of the Court of Wards previously had in writing.

Collectors, managers, and guardians liable to be sued in the Courts of Judicature.

XXVI. Collectors, managers, and guardians shall be respectively liable to be sued in the Courts of Judicature for acts done by them respectively, with respect to the abuse of the property or persons of disqualified persons during the period of disqualification; and in cases where the property of incapacitated persons may have been restored to them or their heirs and successors, to institute process against collectors, managers, and guardians for the recovery of damages from those collectors, managers, and guardians respectively, for injuries sustained by them or by their property during the time of their incapacity.

Suits instituted against collectors under this regulation, to be defended at the proper costs of the collectors, unless the acts complained of shall have been done under the written authority of the Court of Wards.

XXVII. Such suits as may be instituted against collectors by virtue of this regulation shall be defended at the proper costs of the said collectors; provided that the acts and things for which they may be so prosecuted shall not have been authorized in writing by the Court of Wards.

A.D. 1805. REGULATION I.

[THE BENGAL RULES RESPECTING THE SALT REVENUE ARE FOUND IN REGULATION VI., 1801.]

A REGULATION* *for regulating the Revenue derivable from Salt manufactured in the Territories subject to the Presidency of Fort St. George; for establishing a Monopoly of that Article, except in the Provinces of Canara and Malabar; for abolishing the Duty on its Transit, and fixing a Price on the Sales:* PASSED *by the Right Honourable the Governor in Council, on the* 13*th September*, 1805, *corresponding with the* 31*st Avani of the* 1727*th year of Saliwahana, and with the* 18*th Jamadi-us-sani* 1220, *Hijra.*

Preamble.

WHEREAS it is provided by Section IV., Regulation XXV., A.D. 1802, that "Government hath reserved to itself the entire exercise of its discretion in continuing or abolishing temporarily or permanently the branch

* Such parts of this Regulation as require that the penalties for breaches of the salt laws shall be sued for in the Civil Courts are repealed by Sec. ii., Reg. V., 1831, and provision is made for their recovery in the Criminal Courts; and by Act XVII., 1840, petty offences are punishable summarily by the magistrates.

of the public resources arising from the manufacture and sale of salt, saltpetre, &c., and the permanent assessment of the land-tax is accordingly made, exclusively of salt, saltpetre," and the other articles of revenue in the said fourth section recited; and whereas the Right Honourable the Governor in Council, deeming it expedient that Government should avail itself of the exclusive privilege thus reserved to itself for the improvement of its finances, has been pleased to enact the following regulation, to have effect from the 12th July, 1805.

Salt revenue to be subject to the superintendence and control of a general agent, who shall execute the functions of this duty under the obligation of an oath.

II. The manufacture and sale of salt shall, under the orders of the Board of Revenue, be subject to the immediate direction and control of a general agent* to be appointed by Government, who, previously to entering on the discharge of the functions of his office, shall take and subscribe the following oath before the Right Honourable the Governor in Council.

See Act XXI., 1837.

Form of an oath.

I, A. B., swear that I will, to the best of my ability, diligently, conscientiously, and faithfully perform the duties required of me as general agent for the salt monopoly; that I will truly and faithfully account for the sums advanced to me, or received by me, on account of the manufacture and sale of salt; that I will not, directly or indirectly, at any time, either during my superintendence or afterwards, have any private concern in salt, nor derive any profit from my office besides the established commission and salary; nor will I knowingly suffer any of my subordinate officers or dependants to have any such unlawful concern, or to derive any unauthorized profits.

Manufacture, sale, transit, export, and import of salt, except on account or with permission of Government, prohibited, under pain of confiscation.

III. The manufacture or sale of salt, and the transit, export, and import of it, whether by sea† or land, in the territories subject to the Presidency of Fort St. George, excepting on account of Government, or with their express sanction, is hereby expressly forbidden; and all salt manufactured, sold, conveyed, exported, or imported, directly or indirectly, otherwise than is provided for in this regulation, shall be liable to seizure and confiscation.

Manufacture and sale of salt, how to be conducted.

IV. *First.* The manufacture and sale of salt, subject to the limitation in the preceding section, shall be conducted in the usual manner by collectors, in communication with the general agent of salt, and under the orders of the Board of Revenue; the shares heretofore, in some places, paid as wages to merasi manufacturers from the proceeds of sale, and the hire to labourers, shall be paid at the same rates as formerly obtained, unless altered by mutual consent of the officers of Government and such merasi manufacturers and labourers; but the shares of merasi manufacturers and the hire of labourers shall be paid in money at the average selling price of salt at the pans, respectively calculated on the five years preceding the date of this regulation.

Authorised enâms.

Second. The same rule shall be applicable to all authorized enâms,

* The office of salt agent does not now exist as a separate appointment, but its duties are discharged by collectors under the orders of the Board of Revenue.

† Repealed, as regards the importation by sea of foreign salt, by Sec. ii., Reg. II., 1818. See, also, Act VI., 1844.

russooms, yeomiahs, from salt to be paid in money.

russooms, yeomiahs, and generally to all allowances heretofore paid in kind, which being commuted at the average price specified in the foregoing clause, if held under due authority, shall be paid by the equivalent in money.

Rate of shares and the commutation to be regulated by collectors

Third. The amount and commutation of shares, enâms, russooms, and allowances shall be regulated and adjusted by the general agent in communication with the collectors and under the orders of the Board of Revenue; an annual register of the same shall be kept by the collector at each place of manufacture.

Registers of salt manufactured, sold, and the price to be kept and transmitted, half-yearly, to the Board of Revenue

Fourth. Registers shall likewise be kept by collectors of the quantity of salt manufactured and sold at the pans or places under their charge respectively, whether for home consumption or for export by sea or land, specifying the price of the salt so sold in a separate column; such registers shall be transmitted to the general agent every six months, and an abstract of them be by him transmitted to the Board of Revenue.

Advances for manufacture to be made as usual.

Fifth. Advances for the manufacture of salt shall be made in the usual manner by collectors after advising with the general agent as to the amount and time of making such advances.

General agent to determine the quantum of salt and the places where to be manufactured.

V. *First.* The general agent of salt revenue shall have authority to determine the places where salt shall be manufactured, and the quantum of salt to be manufactured annually at those places respectively; should he deem it expedient to limit the quantity usually manufactured, or to suspend the manufacture entirely, at any of the usual places of manufacture, a compensation shall be made in the manner pointed out in Clause First, Section IV. of this regulation, to the persons whose interests may be fairly proved to be affected by such suspension or limitation.

Compensation to be made to persons suffering in consequence.

General agent to report these cases to the Board of Revenue.

Second. The general agent shall report all cases of this nature for the previous sanction of the Board of Revenue.

Merasi manufacturers declining to make salt, either by themselves or labourers, to forfeit their usual advantage from salt.

VI. Should merasi manufacturers decline the manufacture of salt, either by themselves or their labourers, when required by the officers of Government to carry it on as usual in the lands they occupy, they shall, on proof of such refusal, established to the satisfaction of the *judge of the zillah*, be liable to a forfeiture of the benefits formerly derived by them from the salt revenue of such lands, and the officers of Government shall be at liberty to employ other labourers willing to manufacture salt in those lands.

See Sec II Reg V., 1831

No person to be compelled to manufacture or transport salt.

VII. No person shall be compelled, under any pretence whatever, to engage in the provision, manufacture, or transportation of salt, and all persons who may so engage, and may not choose to continue, shall be at liberty to relinquish the employment, after completing the engagements into which they may have entered.

Prohibition against the clandestine manufacture of salt in the estates or lands of proprietors, farmers, Government officers, or managers.

VIII. *First.* After the date of the regulation, it shall not be lawful for any proprietor of land in the territories subject to the Presidency of Fort St. George, whether malguzari or lakhiraj, nor for any zemindar, merasidar, farmer, officer, or other person holding lands in farm, or in amani immediately of Government, or otherwise, nor for the managers of land

belonging to minors or disqualified landholders, to establish any salt-pans or works of any description for the manufacture of salt, excepting on the account or with the permission of Government; should it be proved to the satisfaction of the *Judge of the Dewanny Adawlut* in the respective zillahs, that such proprietor, zemindar, merasidar, farmer, officer, amin, or manager, subsequently to the promulgation of this regulation, established, or connived at establishing salt-pans, or other works for the manufacture of salt in the lands subject to his charge, contrary to the spirit of this regulation, he shall be adjudged to pay a fine of 1,000 pagodas.

Penalty on detection and proof.

[Fine to be levied under the rules for enforcing decrees.]—*Superseded by Section IV., Regulation IV.*, 1831. See also Act XVII., 1840.

Second. One-third of the amount of the fines which may be levied under this section shall be paid to the person or persons who shall have furnished the information, another third to the collectors [*commercial residents*], their assistants or officers, by whom the offence shall have been detected and reported, and the remainder to Government.

Appropriation of the fines levied under this section.

See Sec. vi., Reg. V., 1831.

Third. Persons considering themselves aggrieved by the decisions of the *Zillah* Courts in these cases shall be at liberty to appeal therefrom in the manner prescribed for appeals by Section XII., Regulation IV., A.D. 1802.

Persons aggrieved by the judgments of the *Zillah* Courts may appeal, in the prescribed form.

Fourth. The judge of the court adjudging fines under this section shall, previously to carrying the decree into execution, transmit a copy of the decree to the Governor in Council, to whom it shall be competent *to countermand the sale of the land*, to order that the whole or part of the fine be received in money, or to remit the whole, or any part of such fine, accordingly as he may judge proper on a consideration of the circumstances of the case.

Cases of forfeit or fine to be referred by the judge, previously to execution, for the sanction of Government.

Superseded by Sec. iv., Reg. V., 1831.

Rescinded, as regards the importation by sea, by Sec. ii., Reg. II., 1818. See Act VI., 1844.

IX. Foreign salt, under which denomination is to be deemed to be included salt of every description made or produced without the limits of the territories subject to the Presidency of Fort St. George, shall not be imported into any part of the said territories, excepting on account of Government, or with their especial sanction, or in virtue of a regulation duly enacted and promulgated for the purpose; any salt which shall be imported, or shall be attempted to be imported, contrary to this prohibition, shall be liable to confiscation.

Foreign salt forbidden to be imported, except on account or with the permission of Government, under penalty of confiscation.

X. The duty heretofore levied on the transit of salt shall henceforward be discontinued.

Duty abolished.

See Secs. xliii. and xliv., Act VI., 1844.

XI. *First.* A price on salt manufactured and sold within the territories subject to the Presidency of Fort St. George shall be paid by the purchasers of salt to the local officers of revenue, at the place of manufacture, store, or elsewhere, as may be determined by the general agent in communication with the Board of Revenue.

Fixed price to be paid by purchasers at the places of manufacture.

Second. [Governor in Council to fix the price of salt.]—*Superseded by Sections XLIII. and XLIV., Act VI.*, 1844.

Third. Persons buying salt at the place of manufacture, store, or other authorized place, and paying the established price for it, shall be exempted

The payment of the price of salt as established to exempt per-

sons from the payment of farther demand of duty on that account.

A rowannah to be given them.

Purport of rowannah.

from the payment of any farther demand on account of duty, custom, or otherwise, within the territories subject to this Government, and shall receive a rowannah certifying the purchase, authorizing the exemption, and specifying the quantity of salt intended to be transported under it, the place where the salt was procured, whether intended to be transported, and the manner in which it is carried.

Officers employed in the sale of salt to be furnished with a written authority for the purpose.

Fourth. Persons employed in selling salt shall be furnished with a written authority from the general agent of salt, or from the collector for that purpose, specifying the places where they are authorized to conduct the sales and the rate of price.

Rowannahs, rules respecting

Transit of salt not to be permitted without a rowannah.

XII. *First.* Salt shall not be conveyed or transported by land or water within the provinces subject to the Presidency of Fort St. George without a rowannah or pass from the proper officer. Salt transported without a rowannah shall be liable to seizure and confiscation.

See Sec xlv., Act VI, 1844

Persons entrusted with the sale of salt to be furnished with blank rowannahs

Description and form of rowannah.

Second. The general agent of salt and the collectors of revenue shall furnish their subordinate officers entrusted with the sale of salt with blank rowannahs or passes, signed by the secretary to the Board of Revenue, and countersigned by themselves respectively, to be written in the native languages in the following form.

SEAL.

Permit the salt as herein specified to pass without delay, and free of duties of every description.

(Signed) R. F.
GEN. SALT AGENT.

Number of Rowannahs.	Date of Issue.	To whom granted.	Quantity of Salt sold.	Where purchased.	Price paid for it per Madras Garce of 4800 Seers.	On what Laden.					Whither going.	Remarks.
						No. of Bullocks.	Horses or Asses.	Bandies	Boats.	Coolies.		

Rules for the conduct of the chouki officers in passing salt.

Third. On the arrival of salt at a chouki, the officer in charge shall ascertain whether the quantity correspond with that stated in the rowannah; if so, he shall certify the same on the back of the rowannah and pass it without delay.

Salt exceeding the quantity specified in the rowannah liable to seizure and confiscation

Fourth. If any person shall attempt to transport a greater quantity than that specified in the rowannah, the whole shall be liable to seizure and confiscation.

Fifth. Persons in charge of salt are required to keep their rowannahs with the salt; if the rowannah shall not be produced when required, the salt shall be liable to seizure and confiscation.

The rowannah to be kept with the salt: penalty.

Sixth. Collectors shall keep correct registers of the blank rowannahs delivered to the officers and subordinate salt servants selling salt at the pans or elsewhere, to be filled up; and they shall cause regular returns in the form prescribed in Clause Second of this section, to be made to them by their officers and subordinate salt servants of all rowannahs issued, to be numbered in the register according to the date of their issue respectively.

Registers to be kept of blank rowannahs, and returns made of the issue of rowannahs.

XIII. Proprietors, farmers, and renters of land, managers of estates, amins and tahsildars, are required to give immediate information to the officers of the salt agent, to the nearest magistrate, or to the collector, of any salt that may be made in or imported into the lands of which they may respectively have charge, under pain of being liable to Government for a penalty of 25 per cent. on the value of salt proved to have been so made or imported with their knowledge or connivance, exclusively of the penalty of confiscation, should the salt belong to them. The magistrates and collectors shall cause to be detained any such salt of which they may receive information, if they should believe it liable to confiscation, and cause it to be delivered to the general agent, collector, or nearest public officer of the salt department.

See Cl. 4, Sec. III., Reg. V, 1831.

Proprietors, farmers, renters, managers, amins and tahsildars of lands, to give immediate notice of salt made or imported in the lands subjected to them.

Penalty for wilfully omitting to do so.

XIV. *First.* With a view the more effectually to restrain the illicit manufacture, sale, transit, import, or export of salt, it is required of all magistrates, officers of police, collectors of revenue and of customs, [*commercial residents,*] master attendants, and beach-masters, to assist in the suppression of illicit dealings in salt, as far as they shall be found to prevail within the limits of their respective jurisdictions.

Magistrates, officers of police, collectors of revenue and customs, *commercial rendents,* master attendants, and beach-masters, to assist in preventing illicit trade in salt.

Second. All officers of police shall comply with such applications as may be made to them by the general agent and officers attached to the salt department, by collectors of revenue or customs, by [*commercial residents*], or other Government officers, for assistance in the seizure of salt illegally manufactured, sold, conveyed, imported, or transported; or in the event of a public officer himself detecting such illicit practices, he shall report the case for the information of his immediate superior, detaining the salt till he receives orders.

Police officers to comply with requisitions duly made for their assistance.

Third. If any officer of police shall receive information of salt not made in the territories subject to this Presidency, being illegally imported, or of salt of any description being transported without the proper rowannahs, or of any salt being manufactured on account of individuals otherwise than provided for by this regulation, whether at the Company's salt-pans or at salt-pans established by individuals for their own account, such police officer shall transmit immediate notice thereof to the nearest magistrate or collector, or to the general agent; the police officer shall then wait the orders either of the magistrate or of the collector or general agent, and assist in the seizure of the salt under those orders, and shall not, in the first instance, seize the salt; nor shall they, in any instance, of their own authority, seize salt, excepting when the salt may not be accompanied by a proper rowannah; in this case only they are to detain it, sending imme-

Public officers to give notice of illicit transactions in salt, but not to seize or detain salt themselves, unless unaccompanied with a proper rowannah.

diate notice to the magistrate, collector, or superintendent. Police officers acting contrary to these injunctions shall be liable to dismission and prosecution.

Salt illegally manufactured, sold, imported, or transported, to be seized, by whom

Fourth. Magistrates, collectors, [*commercial residents,*] and other public officers of Government are empowered to direct the seizure of salt which they may have sufficient grounds to believe to have been illegally manufactured, sold, imported, or transported; in all such cases, the earliest practicable notice shall be communicated to the Board of Revenue and to the general agent.

Salt seized, how to be disposed of.

Fifth. All salt seized under this regulation shall be delivered over, as soon as may be practicable, to the nearest collector, or to such other person as the Board of Revenue or the general agent of salt may direct.

Subordinate officers making seizure of salt to transmit immediate notice thereof to their superiors.
Penalty.

Sixth. Police officers and other subordinate officers making seizures of salt, shall transmit without delay, and in the most expeditious manner, a report of the circumstances of the seizure to their immediate superiors; if they omit or unnecessarily delay to do so, they shall be liable to prosecution for damages by the proprietor, and to dismission from office, and to fine.

Rewards for information of illicit transaction.

XV. Officers of Government by whom salt may be attached on just grounds, shall be entitled to a reward of 33 per cent. on the net proceeds of the salt when sold, or on the estimate average value of the salt; if the seizure be made on just grounds by the subordinate officers of magistrates, collectors, [*commercial residents,*] &c., or in consequence of correct information furnished by them, such subordinate officer shall be entitled to a reward of 25 per cent. on the average value of the salt seized.

Directions for releasing an improper seizure.

XVI. If salt shall have been seized by the officers, or under the orders of any magistrate, collector, or [*commercial resident,*] and previously to the receipt of orders for the final confiscation it be found that the salt was seized on erroneous information and is not liable to confiscation, the magistrates, collectors, [*commercial residents,*] &c., are hereby empowered to release the salt, communicating the circumstances immediately to the Board of Revenue and to the general agent of salt for their information.

Board of Revenue how to act on the report of seizure of salt.

XVII. On a seizure of salt being reported to the Board of Revenue, they shall immediately take the case into consideration. If they determine that the salt is not liable to confiscation, they shall order it to be released, and the officer by whose authority the salt shall have been seized (not being a magistrate) shall be liable to be sued for damages in the *Zillah* Court, and shall maintain the suit at his own risk and expense; the Board are, however, empowered to indemnify the person by whose authority the seizure shall have been made, for the consequence of the suit, should they, on a consideration of the circumstances of the case, deem such person entitled to indemnification; or the Board may order the suit to be defended on the part of Government, or grant such indemnification as they may deem equitable to the owners of the salt, reporting to Government the measures they may have adopted, and their reasons for adopting them.

Punishment denounced against fraud-

XVIII. Any person engaging in any clandestine or fraudulent trans-

action with respect to rowannahs or passes, smuggling, or conniving at the smuggling of salt, making, purchasing, obtaining, selling, or weighing salt in an illicit manner, shall, on conviction, besides being fined at the discretion of the judge, according to the circumstances of the case, be liable to permanent exclusion from the service of the Company.

ulent practices respecting salt.

See Sec. iii., Reg. V., 1831, and Act XVII., 1840.

See Secs. xliii. to xlv., Act VI., 1844.

XIX. *First.* The provisions of this regulation shall in no respect interfere to prevent or obstruct the usual annual supply of coast salt, whether by contract or by permit, required by the Bengal Government, and the same shall be furnished for that purpose from the Company's pans to the contractors, and to persons desirous of exporting salt on permit to Bengal, at the prices heretofore paid for salt so furnished and exported.

This regulation not to prevent or obstruct the supply of salt to Bengal by contract or permit.

Second. The contractors shall communicate with the general agent on all points relating to the supply of salt, and the necessary instructions shall be forwarded by him to ship or deliver the salt at the respective places, according to the custom heretofore observed; on the salt being shipped or delivered, the contractors or their agents shall furnish the officer of Government with a receipt for the quantity so shipped or delivered.

Contractors to transmit to the superintendent statement of the quantity of salt required.

Third. When the salt shall have been shipped, the collector of the district shall grant to the contractor, his agent, or to the master of the vessel, a certificate in the following form :—

A certificate to be granted by the collector to the contractor.

"This is to certify that (0000) maunds of salt, laden on the (vessel's name), were manufactured in the Honourable Company's districts under my charge, and exported from ( )"

A. B.

Collector.

Form of certificate.

Fourth. Persons wishing to export salt for Bengal, on permit, shall apply to the collector of the district for the quantity required, naming the vessel on which the salt is intended to be exported, when a permit for the same, in the following form, and a certificate as above, shall be furnished, and the salt be shipped or delivered by the collector.

Forms to be observed on salt being exported to Bengal on permit.

Form of the Permit.

"This is to certify that the (ship's name), whereof (master's name) is at present master, and (owner's name) of (place of residence) is owner, has permission to export from (place of exportation) 0000 maunds of salt, to be delivered on shore within the limits of the port of Calcutta, upon account of the Honourable Company, at such golahs or places as the Board of Trade in Bengal may appoint."

(Signed) A. B.

General Agent Salt Monopoly.

Form of permit.

Fifth. The collector or officer of Government shall be furnished by the person exporting salt on permit, or his agent, with a receipt for the quantity shipped or delivered.

Persons exporting salt on permit to pass a receipt for quantity received.

Sixth. If any vessel on which salt may have been shipped for Bengal, whether on account of the contractors, or on permit, meet with bad weather, or any accident that may render it necessary to reland a part or the whole of the cargo at any port subject to the Presidency of Fort St.

Salt relanded to be reported by the commander of the ship to the local officer of Government, who shall report the case to the collector or agent.

George, the commander shall give notice to the nearest public officer entrusted with the manufacture and sale of salt, who shall immediately report the circumstance to the general agent or to the collector of the district. The general agent, or collector, shall issue directions for the relanding of the salt, which shall be stored at the Company's pans; all charges of relanding and storing shall be defrayed by the owner of the salt, who shall be permitted to keep a peon or other person over the salt, and be liable to all loss that may arise from wastage or other accident while the salt remains on shore; salt so relanded shall be shipped again at the expense of the owner, within 12 calendar months, under penalty of forfeiture; notice shall be given to the Company's officers when the salt is to be removed, and permission be obtained from the general agent or collector for that purpose; salt removed without such permission shall be liable to confiscation.

Mode to be observed with respect to relanded salt.

To be reshipped within twelve months, or confiscated.

XX. [Fines under this regulation to be sued for in the Zillah Adawlut.] *Repealed by Section II., Regulation V.*, 1831.

Persons aggrieved under this regulation may prosecute Government or its officers.

XXI. Persons deeming themselves aggrieved under this regulation, by any act or order done or issued by the Governor in Council, or by the Board of Revenue, or by any of the officers of Government, shall be at liberty to apply for redress in the manner prescribed in *Section XV., Regulation II., A.D.* 1802.

Substitute Reg. I., 1823.

Regulation to be generally promulgated by the proper officers in the several zillahs.

XXII. This regulation shall be carefully published and promulgated by the proper officers in every zillah or district, so that no plea of ignorance may be advanced in excuse for its infringement; and all collectors and officers entrusted with the manufacture and sale of salt shall cause translates of it, in the local language, to be suspended, for general observation, in their respective offices.

Not for the present to have operation in Malabar and Canara.

XXIII. The provisions of this regulation shall not, for the present, have operation in the provinces of Canara or Malabar.

See Reg. II., 1807.

A.D. 1806. REGULATION I.

A Regulation *for the Conduct of the Commercial Residents and Agents and all Persons employed or concerned in the Provision of the Company's Investment:* Passed *by the Governor in Council of Fort St. George, on the* 14*th February*, 1806.

[This Regulation became extinct on the termination of the East-India Company's commercial rights and concerns, under the provisions of the Charter Act, 3 & 4 William IV., cap. lxxxv.]

A.D. 1806. REGULATION II.

A REGULATION *for establishing Courts of Adawlut in the several Districts subject to the Presidency of Fort St. George, in which a permanent Settlement of the Land Revenue has not been introduced, and for defining the Powers and prescribing the Duties of the Judicial and Revenue Authorities respectively in those Districts:* PASSED *by the Governor in Council of Fort St. George, on the* 14*th February,* 1806, *corresponding with the* 5*th Masi of the* 1727*th year of Saliwahana, and with the* 24*th Zilkada,* 1221, *Hijra.*

Preamble.

WHEREAS it is expedient for the due administration of justice that Zillah Courts should be established in all the territories dependent on the Presidency of Fort St. George; that the judicial powers granted to the Board of Revenue and collectors by Regulations I. and II., A.D. 1803, should be formally abrogated, and that the authority of the Board of Revenue and of collectors of revenue in districts where the land revenue has not been permanently settled, shall be subjected to the control of the general laws, and limited to the superintendence and collection of the revenue, in the same manner as in zillahs in which the assessment on the lands has been permanently fixed; and whereas it is expedient for the purpose of obtaining a correct knowledge of the resources of unsettled districts that the kurnums or village accountants should be subject to the more immediate authority of the collector than has been judged necessary where the land revenue has been permanently fixed,—the Governor in Council has been pleased to enact the following rules:—

The judicial powers and authority heretofore vested in the Board of Revenue and the collectors revoked, and the several sections of the regulations granting those powers rescinded.

II. The judicial powers confided to the Board of Revenue by Sections XXIX., XXXIX., XLIV., XLV., XLVI., XLVII., of Regulation I., A.D. 1803, and to collectors of revenue by Sections XLII., XLV., XLVI., XLVII., XLVIII., XLIX., L., LI., LII., LIII., LIV., LV., LVI., LVII., and LVIII. of Regulation II., A.D. 1803, in districts where the assessment of revenue is not permanently fixed, are hereby revoked, and the several sections above enumerated are accordingly rescinded.

III. [Zillah Courts to be established in unsettled districts.]—*Superseded by Regulation I.,* 1821, *and Act VII.,* 1843. *New courts established by proclamation of the Governor in Council dated* 28*th July,* 1843.

Nature of agreements to be entered into by collectors with the zemindars, landholders, farmers, ryots, &c. &c.

IV. Collectors shall enter into written engagements with zemindars, landholders, and farmers, on such terms as may be deemed reasonable by the Board of Revenue; and in cases where the engagements may be contracted with the ryots or individual occupiers of land, they shall be regulated by the regulations of A.D. 1802, and by such subsequent regulations as may particularly apply to them.

Zillah Courts restricted trying any claims of zemindars,

V. The zemindars, poligars, or cawelgars, whose lands may be under sequestration and managed by collectors at the time of publishing this

polygars, &c., to the possession of lands under sequestration.

regulation, shall not obtain possession of such lands except by specific orders of the Government.

Arrears of revenue, how recoverable.

VI. The provisions of Regulation XXVII. and Regulation XXVIII., A.D. 1802, shall be extended to all districts in which *Zillah* Courts may be established under the regulation, and shall be observed by collectors as well as zemindars or farmers in their engagements with the ryots or immediate occupiers of the soil.

Certain Clauses of Regulation XXIX., A D. 1802, respecting kurnums, rescinded.

VII. *Clause* 1*st.* I., II., III., IV., V., VI., VII., VIII., IX., X., XIII., XIV., XV., and XVI. of Regulation XXIX., A.D. 1802, respecting kurnums and village accountants, shall not extend to those districts wherein the revenue is not permanently fixed: the following rules, in addition to those prescribed by Sections XI., XII., XVII., XVIII., and XIX. of Regulation XXIX., A.D. 1802, for a due discharge of the duties of kurnums, are hereby enacted.

Kurnums to be under the direct authority of the collector.

Clause 2*nd.* All kurnums of villages in districts of which the assessment of the revenue is not permanently fixed shall be under the immediate authority of the collectors and their subordinate officers; and collectors and their subordinate officers shall have full power to require the attendance of kurnums when and where their services are wanted.

Kurnums, how, and in what cases may be liable to be suspended or dismissed.

Clause 3*rd.* Kurnums shall be liable to dismission from office by the Board of Revenue for incapacity, disobedience, or neglect of the orders of the collectors, or for falsifying or mutilating accounts; and in cases where collectors may consider the circumstances to require the adoption of the measure, they may on their own responsibility suspend kurnums until the orders of the Board of Revenue can be received.

Nomination of kurnums to be in the collectors.

Clause 4*th.* Where there may not be kurnums established, collectors shall report the deficiency to the Board of Revenue, and the names of the persons whom they would recommend for the office, and to whom they are authorized to entrust the execution of the duties of the office pro tempore: where the kurnum may have abandoned the duties of his office for other pursuits, the collector shall call upon him to return and reassume the duties of his office within one month, and in the event of his failing so to do, shall report such failure to the Board of Revenue, with the name of the person whom they would recommend to succeed to the office, and wait the orders of the Board of Revenue.

A.D. 1806. REGULATION III.

A REGULATION *for vesting certain Powers in the Office of Paymaster of Stipends to the Families and Descendants of the late Hyder Ali Cawn and Tippoo Sultaun; and for establishing an efficient Police in the Town and Fortress of Vellore:* PASSED *by the Governor in Council of Fort St. George, on the* 14*th March,* 1806.

[Rescinded by Section II., Regulation XVI., 1808.]

A.D. 1806. REGULATION IV.

A REGULATION *for the more speedy and effectual Administration of Justice in the Courts of Sudder Adawlut and Foujdarry Adawlut:* PASSED *by the Governor in Council of Fort St. George, on the* 14*th March,* 1806, *corresponding with the* 5*th Panguni of the* 1727*th year of Saliwahana, and with the* 22*nd Zihajja,* 1220, *Hijra.*

WHEREAS by Section II., Regulation V., 1802, the Court of Sudder Adawlut consists of the Governor and the other members of the Council of Fort St. George, and by Section III., Regulation VIII., 1802, the Court of Foujdarry Adawlut also consists of the Governor and members of the Council, assisted by the head cauzy and two mufties; and whereas the extended jurisdiction of the Courts of Sudder Adawlut and Foujdarry Adawlut over all the territories under the Presidency of Fort St. George occasions a considerable augmentation of the business of these courts; and whereas it is essentially necessary to the impartial, prompt, and efficient administration of justice, civil and criminal, that the exercise of this important function be separated from the legislative and executive authorities, and vested in two judges not being members of the Government, whose time and attention may be exclusively devoted to the punctual discharge of their judicial duties, under the occasional superintendence of the Governor as President of the courts, until it shall appear advisable to appoint a chief judge also distinct from the Government; the following regulation is therefore enacted by the Governor in Council, to be in force as soon as promulgated.

II. Section II., Regulation V., 1802, and Section III., Regulation VIII., 1802, are hereby repealed. Certain provisions of Regulations V. and VIII. of 1802 repealed.

III., IV. [Constitution of the Court of Sudder and Foujdarry Adawlut.]—*Superseded by Regulation III.,* 1807.

See Act XXI., 1837. V. The chief judge and each of the puisne judges of the Courts of Oaths to be taken by the judges of the Courts

of Sudder Adawlut and Foujdarry Adawlut.

Sudder Adawlut and Foujdarry Adawlut, previously to entering upon the execution of the duties of their offices, shall take and subscribe the oath prescribed for the judges of the Courts of Appeal by Section II., Regulation IV., 1802; and the oath prescribed for the judges of the *Courts of Circuit* by Section V., Regulation VII., 1802.

Powers of the Courts of Sudder Adawlut and Foujdarry Adawlut.

VI. The Courts of Sudder Adawlut and Sudder Foujdarry Adawlut [*constituted by this regulation*] shall possess all the powers vested in the Court of Sudder Adawlut constituted by Regulation V., 1802, and in the Court of Foujdarry Adawlut constituted by Regulation VIII., A.D. 1802; and shall perform all the duties required to be performed by those courts respectively, under the existing regulations, and any other regulations which may be passed and promulgated in the mode prescribed by Regulation I., 1802. See Reg. III., 1807.

To be open courts, and holden as prescribed by the regulations.

Two judges necessary to hold a court.

The ordinary sittings to be holden before the second and third judge.

Chief judge when to attend.

Differences of opinion provided for.

VII. The Courts of Sudder Adawlut and Foujdarry Adawlut shall be open courts, and holden as directed in Section III., Regulation V., 1802, *as soon as a convenient place can be provided for the purpose. Two judges shall be necessary to hold a court; and no decree, sentence, or final order of either court shall be valid, unless passed by two judges present. The ordinary sittings of each court shall be held before the second and third judges, of whom the former shall preside in the absence of the chief judge. But the chief judge shall attend and preside when either of the puisne judges may be prevented from attendance by indisposition or otherwise, or when a difference of opinion between the second and third judges, or any special case or business may in his judgment require it.* In the event of a difference of opinion when the *three judges* are present in court, the voices of the majority shall determine the question. But if a difference of opinion should arise when *two judges* only are present in court, the question shall be postponed for adjudication until the *third judge* can attend. *The judge* who may be absent when any such case shall occur is to be duly advised of the same by the register of the court, and the presiding judge shall instruct the register to summon a special sitting of the court for the adjudication of the question, or order it to be brought forward at the next sitting of the court when *all the judges* shall be present; every decree of the Sudder Adawlut, and every sentence of the Foujdarry Adawlut, shall be signed by the judges present at the passing of such decree or sentence; all other orders of court, as well as all process issued from the Sudder Adawlut or Foujdarry Adawlut, shall be signed and issued by the register under such instructions as now are in force, or as may be prescribed by the courts for his guidance in conformity to Section V., Regulation XII., 1802.*

* The provisions of this section are modified by Reg. III., 1807, which increases the number of judges, and Sec. iv., Reg. III., 1825, which authorizes the appointment of additional judges whenever the Governor in Council may deem it expedient—by Sec. iv., Reg. VIII., 1831, and Sec. x., Act VII., 1843, as regards the powers of single judges of the Sudder Adawlut—and by Sec. v., Reg. VIII., 1831, and Secs. xxxiii. and xxxiv., Act VII., 1843, as regards the powers of a single judge of the Foujdarry Adawlut.

A.D. 1806. REGULATION V.

A REGULATION *for removing the Courts of Appeal established at Arnee to Chittoor:* PASSED *by the Governor in Council of Fort St. George, on the 28th May,* 1806.

[Superseded by Regulation I., 1821, and Act VII., 1843.]

A.D. 1806. REGULATION VI.

A REGULATION *for establishing Annual Vacations of the Courts of Justice, for postponing the Commencement of the Half-yearly Jail Deliveries during such Vacations, and for establishing a fixed Order of Succession in the Jail Deliveries of the several Zillahs throughout the Provinces subject to the Presidency of Fort St. George:* PASSED *by the Governor in Council of Fort St. George, on the 10th of July,* 1806.

[Rescinded by Section II., Regulation III., 1816.]

A.D. 1806. REGULATION VII.

A REGULATION *for incorporating the Village of Cotapilly with the Zillah of Rajahmundry:* PASSED *by the Governor in Council of Fort St. George, on the 10th of June,* 1806.

[Superseded by Regulation I., 1821, and Section LIII., Act VII., 1843.]

A.D. 1807. REGULATION I.

A REGULATION *for amending the Constitution of the Courts of Sudder Adawlut and Foujdarry Adawlut as far as relates to the Appointment of the Chief Judge of those Courts:* PASSED *by the Governor in Council of Fort St. George on the 19th June,* 1807.

[The single enacting section of this regulation was rescinded by Section II., Regulation III., 1807.]

A.D. 1807. REGULATION II.

A REGULATION* *for extending the Salt Monopoly to the Provinces of Canara and Malabar:* PASSED *by the Governor in Council of Fort St. George, on the* 10*th July,* 1807, *corresponding with the* 28*th Ani,* 1728*th year of Saliwahana, and with the* 3*rd Jamadi-ul-Aval,* 1222, *Hijra.*

Preamble.

WHEREAS it has been resolved that the salt monopoly, which, by Section XXIII., Regulation I., A.D. 1805, is temporarily exempted from operation in Canara and Malabar, should be now extended to those provinces, wherefore the following rules are hereby enacted for that purpose.

Salt to be manufactured as heretofore in Malabar and Canara.

II. *First.* The landholders, proprietors, and inhabitants of Canara and Malabar shall be at liberty to carry on the manufacture of salt as heretofore.

The salt so manufactured to be sold to Government alone

Second. The salt so manufactured shall be sold by the landholders, proprietors, or inhabitants to the officers of Government alone, at a price to be determined with the consent of the respective parties, and with reference to the average sale price of several years preceding the establishment of the monopoly.

Penalty on detection and proof of salt being sold by proprietors or others to any other than Government

III. All salt which may be sold by a proprietor, landholder, inhabitant, or manufacturer, to any other than the officers of Government, or others authorized by Government to purchase it, shall be confiscated, and, on a repetition of the offence, the party shall be liable to be fined, at the discretion of the judge, in a sum not exceeding one thousand pagodas.

See Sec III, Reg V., 1831, and Act XVII, 1840

Sections VI. and VIII, Regulation I, A D 1805, declared inapplicable to Canara and Malabar

IV. The provisions of Clause First, Section II., of this regulation, supersede those contained in Sections VI. and VIII., Regulation I., A.D. 1805, which are considered to be inapplicable to Canara and Malabar; but in all other respects the provisions of the said Regulation I., A.D. 1805, are hereby declared to be extended to these provinces.

A.D. 1807. REGULATION III.

A REGULATION *for modifying the Constitution of the Courts of Sudder Adawlut and Foujdarry Adawlut, so far as relates to the Appointment of the Judges of those Courts:* PASSED *by the Governor in Council of Fort St. George, on the* 30*th of October,* 1807, *corresponding with the* 16*th Arpesi,* 1728*th year of Saliwahana, and with the* 27*th Shaban,* 1222, *Hijra.*

Preamble.

WHEREAS it has been deemed advisable to modify the provision contained in Section II., Regulation I., 1807, respecting the appointment of

* See Note prefixed to Reg. I., 1805.

the judges of the Courts of Sudder and Foujdarry Adawlut, the following Regulation has been passed, to be in force from the time of its promulgation throughout the provinces immediately dependent on the Presidency of Fort St. George.

II. Section II. of Regulation I., 1807, is hereby rescinded.

Section II., Regulation I., 1807, rescinded.

III. The Courts of Sudder Adawlut and Foujdarry Adawlut shall, in future, consist of a chief judge, being a member of the council, but not the Governor nor the Commander-in-Chief, and of three puisne judges, to be selected from among the Company's covenanted servants.

See Sec. iv., Reg. III., 1825.

A chief judge, being a member of the council, and three puisne judges, to constitute, in future, the Courts of Sudder Adawlut and Foujdarry Adawlut.

A.D. 1808. REGULATION I.

A Regulation *for restricting and regulating the Sale of Foreign Spirits and the Manufacture and Sale of Country Arrack and Foreign Spirits in the Provinces subordinate to the Presidency of Fort St. George, excepting the Town of Madras and the Limits of the Supreme Court of Judicature at Madras:* Passed *by the Governor in Council of Fort St. George, on the 9th of February,* 1808.

[Rescinded by Section II., Regulation I., 1820.]

A.D. 1808. REGULATION II.

A Regulation *for modifying and amending the Constitution of the Court of Judicature established at Seringapatam:* Passed *by the Governor in Council of Fort St. George, on the 8th of March,* 1808, *corresponding with the 27th Masi,* 1728*th year of Saliwahana, and with the* 10*th Muharram,* 1223, *Hijra.*

Whereas it is expedient, for the purpose of equalizing the administration of justice, that the particular regulations by which the Court at Seringapatam has hitherto been guided should be abrogated, and that the Court of Judicature established at Seringapatam should be constituted on the same principle and with the same powers as are vested in the several local courts under the Presidency of Fort St. George, the Governor in Council has been pleased to pass the following rules for that purpose.

II. to X. [Defining the jurisdiction of the Civil and Criminal Court of

Seringapatam, and enacting certain specific rules for its guidance.]—*Rescinded by Section II., Regulation IX.*, 1827.

The expense of the police establishment to be defrayed by certain assessments as heretofore.

The quit-rent to be levied by the collector under the orders of the Board of Revenue

Every shopkeeper entitled to a pottah specifying the amount of his monthly payment.

Regulations XXV., XXVI., XXVII., XXVIII., XXIX., and XXX. of 1802, and Regulation XII. of 1803, not to extend to Seringapatam, but the revenue to be collected as heretofore.

XI. *First.* The expense of the police establishments at Seringapatam shall be defrayed, as heretofore, by an assessment on the bazar-men and venders of articles holding fixed shops within the fort and island, denominated quit-rent.

Second. The quit-rent shall be levied by the collector, under the orders of the Board of Revenue.

Third. Every shopkeeper shall be furnished with a pottah, signed by the collector, specifying the amount of his monthly payment, for each of which a receipt shall be indorsed on the back of his pottah.

Fourth. Regulations XXV., XXVI., XXVII., XXVIII., XXIX., and XXX. of 1802, [*and Regulation XII. of* 1803,] shall not be considered to be extended to the town and island of Seringapatam, but the rules which have been hitherto observed in the collection of the Revenue shall be continued in force. Rescinded by Reg 1, 1812.

A.D. 1808. REGULATION III.

[Framed upon Regulation XXXIX., 1793, of the Bengal Code.]

A Regulation *for the Appointment of the Cauzee-ool-Coozzat of the Provinces subject to the Presidency of Fort St. George:* Passed *by the Governor in Council of Fort St. George, on the* 1*st April*, 1808, *corresponding with the* 22*nd Panguni*, 1728*th year of Saliwahana, and with* 4*th Safar*, 1223, *Hijra.*

Preamble.

The office of cauzee being requisite at the cities and principal towns and in the provinces for the purpose of preparing and attesting deeds of transfer and other law papers, celebrating marriages, and performing such religious duties or ceremonies, prescribed by the Mahomedan law, as have been hitherto discharged by them under the native government; and the nature of the above-mentioned duties rendering it necessary that persons of character, and duly qualified, should be appointed to these offices, and, to encourage them to discharge their trusts with diligence and fidelity, they should not be liable to removal, unless proved to be incapable or guilty of misconduct, to the satisfaction of the Governor in Council; the following rules have been accordingly enacted.

The cauzee ool-coozzat, or head cauzee of the Sudder Court, to be head cauzee of the provinces; not to be removable but for incapacity, misconduct, or profligacy.

II. *First.* The cauzee-ool-coozzat, or head cauzee of the Sudder Court of Fort St. George, shall be head cauzee of the provinces, and shall not be removable from his office but for incapacity or misconduct in the discharge of his public duty, or acts of profligacy in his private conduct, proved to the satisfaction of the Governor in Council. See Act XIII 1843.

LIBRARY

Second. The head cauzee is to use a circular seal, two inches in diameter, on which shall be inscribed the designation of his office and his name, in the Persian language, as follows:—"The seal of the cauzee-ool-coozat of the provinces subject to the Presidency of Fort St. George." (Name of the head cauzee.)

To use a seal: its form.

III. *First.* The cauzees stationed in the cities, towns, or purgunnahs in the provinces, shall not be removable from their offices, excepting for incapacity or misconduct in the discharge of their public duty, or acts of profligacy in their private conduct. The cauzees so stationed are to use a circular seal one inch and a half in diameter, on which shall be inserted the designation of their office, and their name, in the Persian language, as follows:—"The seal of the cauzee of the city (town, purgunnah or purgunnahs) of" . (Name of the cauzee.)

The cauzees of the cities, towns, or purgunnahs not to be removable but for incapacity, misconduct, or profligacy

To use a seal: its form.

Second. The rule contained in the preceding clause is not to be construed to preclude the Governor in Council from abolishing the office of cauzee at any place where from the number of cauzees stationed in the district, or other cause, the continuance of such an officer may appear to him unnecessary.

The preceding rule not to preclude the abolition of the office of cauzee where such an office may appear unnecessary.

IV. [Vacancies how to be supplied.]—*Rescinded by Section II., Regulation VII.*, 1822.

V. The office of cauzee is declared not to be hereditary.

The office of cauzee not hereditary.

VI. The *Zillah* Courts and the *Provincial Courts of Appeal* are to report to the Sudder Court every instance in which it may appear to them that the cauzee of any purgunnah, city, or town within their respective jurisdictions is incapable, or in which it may be proved to their satisfaction that he has been guilty of negligence or misconduct in the discharge of his public duty, or of acts of profligacy in his private conduct.

The *Zillah* and *Provincial* Courts to report to the Sudder Court every instance of incapacity, negligence, public misconduct, or private profligacy.

VII. It shall likewise be the duty of the head cauzee to report to the Sudder Court in writing every instance in which it may appear to him that the cauzee of any city, town, or purgunnah is incapable, or in which any such cauzee may have been guilty of misconduct in the discharge of his public duty, or of acts of profligacy in his private conduct.

The head cauzee to report to the Sudder Court instances of public misconduct or private profligacy.

VIII. The head cauzee, and the cauzees stationed in the cities, purgunnahs, and towns, are to keep copies of all deeds, and law or other papers which they may draw up or attest, and are to affix thereto their seals and signature. They are likewise to keep a list of all such papers, and in the event of their death, resignation, or removal, the list and papers are to be delivered complete to their successors.

Cauzees to keep copies of all papers they may draw up or attest. To keep lists of such papers The lists and papers to be delivered to their successors

IX. The judges are to furnish the cauzees stationed in their respective jurisdictions with copies of the Persian translates of all regulations printed and published in the manner directed in Regulation I., A.D. 1802.

The judges are to furnish the several cauzees with copies of the Persian translates of the regulations.

X. The cauzees stationed in the several zillahs are to be liable to be sued in the Court of Adawlut for any undue practices in the discharge of

Cauzees stationed in zillahs to be liable to prosecution in the *Zil-*

lah Courts for undue practices.

the duties which shall be prescribed to them by any regulation printed and published in the manner directed in Regulation I., 1802.

A.D. 1808. REGULATION IV.

A REGULATION *for establishing Stamp Duties on all Pleadings in the Courts of Civil Judicature, on all Copies of Papers furnished by the said Courts, and on the Sunnuds of Appointment granted to Cauzees and authorized Pleaders, and for requiring certain Complaints punishable by the Magistrates to be written on stamped Paper:* PASSED *by the Governor in Council of Fort St. George, on the* 1*st April,* 1808.

[Rescinded by Section II., Regulation XIII., 1816, and Section II., Regulation II., 1817.]

A.D. 1808. REGULATION V.

A REGULATION *prescribing the Payment of Fees on the Institution and Trial of Suits in the Courts of Civil Judicature, and before the Native Commissioners vested with Judicial Powers under Clause Second, Section IX., Regulation XVI.,* 1802, *and for the Appropriation of Fees so collected:* PASSED *by the Governor in Council of Fort St. George, on the* 1*st April,* 1808.

[Rescinded by Section II., Regulation XIII., 1816, and Section II., Regulation II., 1817.]

A.D. 1808. REGULATION VI.

A REGULATION *for rescinding such Parts of the existing Regulations as restrict the Senior Judges of the Courts of Circuit from proceeding upon the Circuit in their respective Divisions, and for extending the Authority of the Courts of Foudarry Adawlut and Sudder Adawlut in certain Cases:* PASSED *by the Governor in Council of Fort St. George, on the* 1*st of April,* 1808.

[The whole of the enactments of this Regulation are superseded by the provisions of Act VII., 1843.]

A.D. 1808. REGULATION VII.

A REGULATION *for declaring the Powers of the Governor in Council to provide for the immediate Punishment of certain Offences against the State, by the Sentence of Courts Martial:* PASSED *by the Governor in Council of Fort St. George, on the* 1*st April,* 1808, *corresponding with the* 22*nd Panguni,* 1728*th year of Saliwahana, and with the* 4*th Safar,* 1223 *Hijra.*

WHEREAS during wars in which the British Government has been engaged against certain of the native powers of India, certain persons owing allegiance to the British Government have borne arms in open hostility to the authority of the same, and have abetted and aided the enemy, and have committed acts of violence and outrage against the lives and properties of the subjects of the said Government; and whereas it may be expedient that during the existence of any war in which the British Government in India may be engaged with any power whatever, as well as during the existence of open rebellion against the authority of the Government in any part of the British territories subject to the government of the Presidency of Fort St. George, the Governor in Council shall declare and establish martial law within any part of the territories aforesaid, for the safety of the British possessions, and for the security of the lives and property of the inhabitants thereof, by the immediate punishment of persons owing allegiance to the British Government who may be taken in arms in open hostility to the said Government, or in the actual commission of any overt act of rebellion against the authority of the same, or in the act of openly aiding and abetting the enemies of the British Government within any part of the territories above specified,—the following regulation has been enacted by the Governor in Council to be in force throughout the British territories immediately subject to the Government of the Presidency of Fort St. George from the 1st day of October, 1808.

The Governor in Council, in time of war or during the existence of rebellion, empowered to establish martial law therein.

And to direct the immediate trial, by courts martial, of all persons owing allegiance to the British Government who shall offend against this regulation.

II. The Governor in Council is hereby declared to be empowered to establish martial law within the territories subject to the Government of the Presidency of Fort St. George, for any period of time, while the British Government in India shall be engaged in war with any native or other power, as well as during the existence of open rebellion against the authority of the Government in any part of the territories aforesaid; and also to direct the immediate trial, by courts martial, of all persons owing allegiance to the British Government, either in consequence of their having been born, of their having served under it in any capacity, or of their being resident within its territories and under its protection, who shall be taken in arms in open hostility to the British Government, or in the act of opposing by force of arms the authority of the same, or in the actual commission of any overt act of rebellion against the state, or in the act of conspiring with, or of openly aiding and abetting the enemies of the British Government within any part of the said territories.

Persons owing allegiance to the British Government who shall be convicted, by the sentence of a court martial, of any of the crimes specified in the foregoing section shall be liable to the immediate punishment of death

And to the forfeiture of their property and effects.

III. It is hereby further declared, that any person born or residing under the protection of the British Government within the territories aforesaid, and consequently owing allegiance to the said Government, who, in violation of the obligation of such allegiance, shall be guilty of any of the crimes specified in the preceding section, and who shall be convicted thereof by the sentence of a court martial during the establishment of martial law, shall be liable to immediate punishment of death, and shall suffer the same accordingly by being hanged by the neck until he is dead. All persons who shall in such cases be adjudged by a court martial to be guilty of any of the crimes specified in this regulation shall also forfeit to the British Government all property and effects, real and personal, which they shall have possessed within its territories at the time when the crime of which they may be convicted shall have been committed.

The Governor in Council not precluded by this regulation from causing persons charged with any of the offences described in it to be brought to trial before the ordinary courts of justice or before any special court

IV. The Governor in Council shall not be precluded by this regulation from causing persons charged with any of the offences described in the present regulation to be brought to trial at any time before the ordinary Courts of Judicature, or before any special court appointed for the trial of such offences under [*Regulation VI.*, 1802,* *and Regulation XX.*, 1802,†] instead of causing such persons to be tried by courts martial, in any cases wherein the latter mode of trial shall not appear to be indispensably necessary.

Rescinded by Sec ii, Reg IX., 1816

† Supersede by Act V., 1841

A.D. 1808. REGULATION VIII.

A REGULATION‡ *for establishing Stamp Duties on all Copies of Papers furnished by the Board of Revenue or Collectors of Revenue, and on all Rowannahs issued from the department of Customs; for requiring Licenses for the Manufacture or Sale of Spirituous Liquors or Drugs; Deeds for the Payment and Receipt of Money and for the Transfer of Property real or personal; also all Deeds of Contract and Agreement and other Legal Instruments to be written on Stamped Paper; and for the more effectually securing the Stamp Duties on Judicial, Revenue, and Commercial Papers:* PASSED *by the Governor in Council of Fort St. George, on the* 17*th of June*, 1808, *corresponding with the* 6*th Ani*, 1729*th year of Saliwahana, and with the* 21*st Rabi-us-sani*, 1223 *Hijra.*

THE *Governor in Council, with the view of adding eventually to the public resources, without burthening individuals, has resolved to establish stamp-duties on all copies of papers furnished by the Board or collectors of Revenue, and on rowannahs issued from the department of Customs. The*

‡ This Regulation was rescinded prospectively from 1st February, 1817, by Reg. XIII., 1816; but the operation of that enactment was postponed to the 12th July, 1817, by Sec. ii., Reg. II, 1817. It was subsequently enacted by Sec. iii., Reg. VII., 1817, that the provisions of Reg. VIII., 1808, should continue to apply to deeds executed between 1st January, 1809, and 12th July, 1817. So much of this regulation as declares the value of the stamps required between those periods is here retained for reference.

Governor in Council having also resolved that all licenses for the manufacture or sale of spirituous liquors or drugs in the provinces subject to the Presidency of Fort St. George shall be written on stamped paper; and having deemed it necessary, for the security of the public revenue derived from the stamp duties, to adopt further rules for the purpose of more effectually preventing the fabrication and use of forged stamped paper, and as the Mahomedan law does not prescribe any specific punishment for an offence of the above nature, it has been deemed just and expedient to define the punishment for such offence; and as it has appeared requisite to explain more fully the intention of certain sections respecting copies of judicial and revenue papers, the following rules have been enacted by the Governor in Council, to be in force from and after the 1st *day of January,* 1809.

After the date specified in the foregoing section, original obligations for the payment of any sum exceeding Sa. Rs. 16 *to be written on stamped paper.*

Exception.

IX. First. All original obligations for the payment of money, whether bonds, promissory notes, drafts, bills of exchange, or of any other denomination whatever, which may be executed or drawn within the provinces subject to the Government of Fort St. George, from and after the first day of January, 1809, *for the payment of a sum of money exceeding sixteen rupees, exclusive of interest (excepting obligations which may be executed or drawn on the part of Government or for money payable to Government, and also excepting obligations for the rent of land paying revenue to Government), shall be written on stamped paper, subject to the following rates of duty, to be specified in the respective stamps.*

Rates of stamp-duties.

1. *If the obligation be for a sum exceeding sixteen rupees, and not above sixty-four, "two annas."*
2. *If exceeding sixty-four rupees, and not above one hundred and twenty-five, "four annas."*
3. *If exceeding one hundred and twenty-five rupees and not above two hundred and fifty, "eight annas."*
4. *If exceeding two hundred and fifty rupees and not above five hundred, "one rupee."*
5. *If exceeding five hundred rupees and not above one thousand, "two rupees."*
6. *If exceeding one thousand and not above two thousand rupees, "four rupees."*
7. *If exceeding two thousand rupees, "eight rupees."*

Inscriptions on the stamps.

Clause Second. The stamps for the several obligations above specified shall have an inscription in the Persian, Telugu, and Tamul languages and characters, to the following effect:—

1. *"Money papers" exceeding sixteen rupees and not above sixty-four, "two annas."*
2. *Do. exceeding sixty-four rupees and not above one hundred and twenty-five, "four annas."*
3. *Do. exceeding one hundred and twenty-five rupees and not above two hundred and fifty, "eight annas."*
4. *Do. exceeding two hundred and fifty rupees and not above five hundred, "one rupee."*
5. *Do. exceeding five hundred rupees and not above one thousand, "two rupees."*
6. *Do. exceeding one thousand and not above two thousand rupees, "four rupees."*

7. "*Money papers*" *exceeding two thousand rupees,* "*eight rupees.*"

After the date specified in Section II., receipts, &c. &c., for any sum exceeding Sicca Rs 16 *to be written on stamped paper.*

Exceptions.

X. First. From and after the 1st *day of January,* 1809, *all acknowledgments for the receipt of money whereby any sum exceeding sixteen Arcot rupees shall be acknowledged to have been paid, received, accounted for, balanced, discharged, released, or in any manner satisfied, or which shall in any manner signify such acknowledgment (with an exception to all acknowledgments granted on the part of Government, or for sums received from Government, and also with an exception to all acknowledgments for the rent of land paying revenue to Government), shall be written on stamped paper, subject to the rates of duty specified in the preceding section upon obligations for the payment of money, and the stamps for the several receipts shall have the same inscriptions as has been prescribed for obligations.*

Rates of duty and inscription to be the same as in the preceding section

On receipt of this regulation, samples of sizes, &c., of paper to be submitted for the Governor in Council's determination on the stamps to be affixed.

Clause Second. On receipt of this regulation, the collector shall transmit to the Board of Revenue samples of the several sizes and descriptions of paper on which acknowledgments for the receipt of money are usually written in their respective zillahs, and the Board of Revenue, after receiving such reports from collectors, are to forward to the Governor in Council samples of the sizes and descriptions of paper which may appear to them proper to be stamped for receipts under this regulation. The Governor in Council will then determine the sizes and descriptions of paper to which the stamps shall be affixed.

All original deeds, &c &c, and copies to be written on stamped paper after the date specified in Section II

XI. First. All original deeds for the sale, gift, devise, or other transfer of property real or personal, all deeds of mortgage, assignment, or release, and all other deeds of contract and agreement, as well as other legal instruments, of whatever denomination (with the exceptions hereafter noticed), which may be executed within the provinces subject to the Presidency of Fort St. George, from and after the 1st *day of January,* 1809, *and also all copies of such deeds and instruments, which may be prepared after the said date as legal vouchers, whether by a cauzee, mooftee, or any other person, shall be written on stamped paper, subject to a duty of four annas, eight annas, one rupee, or two rupees, according to the size of the paper which may be used for such original deeds or instruments, or the copies of them.*

Rates of duty on the stamps.

Clause Second. The several stamps shall have an inscription in the Persian, Telinga, and Tamul languages and characters, to the following effect:—

Law papers—"two rupees."
Or ——— "one rupee."
Or ——— "eight annas."
Or ——— "four annas."

A.D. 1808. REGULATION IX.

A REGULATION *for altering the Limits of the Jurisdictions of Zillah Courts in the Northern Division, and for defining and declaring the Extent of the Jurisdiction of each of those Courts respectively :* PASSED *by the Governor in Council of Fort St. George, on the 8th July,* 1808.

[Superseded by Regulation I., 1821, and Section LIII., Act VII., 1843.]

A.D. 1808. REGULATION X.

A REGULATION *for altering the Limits of the Jurisdictions of Zillah Courts in the Centre Division, and for defining and declaring the Extent of the Jurisdiction of each of those Courts respectively :* PASSED *by the Governor in Council of Fort St. George, on the 8th July,* 1808.

[Superseded by Regulation I., 1821, and Section LIII., Act VII., 1843, except the following clause.]

II. *Clause Second.* Regulation VI., A.D. 1803, is hereby rescinded.

A.D. 1808. REGULATION XI.

A REGULATION *for altering the Limits of the Jurisdictions of Zillah Courts in the Southern Division, and for defining and declaring the Extent of the Jurisdiction of each of those Courts respectively :* PASSED *by the Governor in Council of Fort St. George, on the 8th July,* 1808.

[Superseded by Regulation I., 1821, and Section LIII., Act VII., 1843, except the following section.]

IX. Regulation VII., A.D. 1803, is hereby rescinded.

A.D. 1808. REGULATION XII.

A REGULATION *for altering the Limits of the Jurisdictions of Zillah Courts in the Western Division, and for defining and declaring the Extent of the Jurisdiction of each of those Courts respectively:* PASSED *by the Governor in Council of Fort St. George, on the 8th July,* 1808.

[Superseded by Regulation I., 1821, and Section LIII., Act VII., 1843.]

A.D. 1808. REGULATION XIII.

A REGULATION *for modifying and declaring the Jurisdiction of the Courts of Appeal and Circuit, and for establishing a fixed Order of Succession in the Jail Deliveries of the several Zillahs throughout the Provinces subject to the Presidency of Fort St. George:* PASSED *by the Governor in Council of Fort St. George, on the 8th July,* 1808.

[Superseded by the Abolition of Provincial Courts under the provisions of Act VII., 1843.]

A.D. 1808. REGULATION XIV.

A REGULATION *for levying a Duty on all Species of Grain imported by Sea at the Port of Madras; for determining the Amount of Duty, and for defining the Rules under which the Duty shall be collected:* PASSED *by the Governor in Council of Fort St. George, on the 9th September,* 1808.

[Rescinded by Section II., Act VI., 1844.]

A.D. 1808. REGULATION XV.

A REGULATION *for transferring to the Board of Trade the Superintendence over the Officers employed in the Collection of the Customs at the Sea-ports, and for amending certain Sections and Clauses of Regulations IX., X., XI., and XII., A.D.* 1803: PASSED *by the Governor in Council of Fort St. George, on the 9th September,* 1808, *corresponding with the 27th Avani,* 1729*th year of Saliwahana, and with the* 17*th Rajab,* 1223 *Hijra.*

WHEREAS it has been deemed expedient to transfer to the Board of Trade the superintendence and control over the officers employed in the

collection of the customs levied on imports and exports at the sea-ports under the Presidency of Fort St. George, which are vested in the Board of Revenue by Regulations IX., X., and XI. of 1803; and whereas it has been deemed expedient in other respects to modify and amend certain clauses of those regulations, the following rules have been passed for these purposes.

[The whole of this regulation, with the exception of the following sections, is rescinded by Section II., Act VI., 1844.]

See Sec. ii., Act VI, 1844.

IV. Section IX. of Regulation IX. of 1803, *which provides for the collection of a duty on grain imported at Madras (except from Bengal), is hereby rescinded.*

Section IX. of Reg IX., 1803, rescinded.

See Reg. VIII., 1818

V. That part of Section LXVI. of Regulation IX. of 1803, which gives to the collector of customs at Madras the benefit of an appeal, "ultimately to the Governor in Council," is hereby rescinded, no such appeal being in any case provided by the constitution established for the internal government of the territories subject to the Presidency of Fort St. George, and it is hereby declared that the same limitations which have been established in regard to appeals in general shall apply to suits in which the collector of customs at Madras may be a party.

That part of Section LXVI. of Regulation IX. of 1803 which gives to the collector of customs the benefit of an appeal to the Governor in Council rescinded

See Sec. ii., Act VI., 1844.

VII. Section XVII. of Regulation X., 1803, *is hereby rescinded.*

A.D. 1808. REGULATION XVI.

A REGULATION *for rescinding Regulation III. of* 1806: PASSED *by the Governor in Council of Fort St. George, on the 4th November,* 1808.

[Superseded by Regulation I., 1821, and Section LIII., Act VII., 1843, except the following section.]

II. Regulation III. of 1806, entitled "A Regulation for Vesting certain Powers in the Office of Paymaster of Stipends to the Families and Descendants of the late Hyder Ali Cawn and Tippoo Sultan, and for establishing an efficient Police in the Town and Fortress of Vellore," is hereby rescinded.

Rescinds Regulation III of 1806

A.D. 1808. REGULATION XVII.

A REGULATION *prescribing the Payment of Fees on the Institution and Trial of all Suits instituted since the* 1*st of January*, 1802, *which may be now depending, and may not be adjusted and withdrawn by the Parties; for substituting new Fees on the Institution of Suits in lieu of those established by Regulation V., A.D.* 1808; *and for declaring exempt from the Payment of Fees, all Suits wherein the Courts of Judicature are empowered to use summary Process:* PASSED *by the Governor in Council of Fort St. George, on the* 11*th of November*, 1808.

[Rescinded by Section II., Regulation XIII., 1816, and Section II., Regulation II., 1817.]

A.D. 1809. REGULATION I.

A REGULATON *to provide for the Appointment and Removal of the Native Officers of Government in the Judicial, Revenue, Salt, Custom, and Commercial Departments:* PASSED *by the Governor in Council of Fort St. George, on the* 7*th February*, 1809.

[Rescinded by Section II., Regulation VII., 1822.]

A.D. 1809. REGULATION II.

A REGULATION *for empowering the Court of Circuit in the Western Division and the Foujdarry Adawlut to take Cognizance of all depending Criminal Cases in the Town and Island of Seringapatam, the Trial of which had been commenced under the local Regulations established for the Guidance of the late Court of Foujdarry at that Place, previously to the Promulgation of Regulation II., A.D.* 1808, *for modifying and amending the Constitution of that Court:* PASSED *by the Governor in Council of Fort St. George, on the* 7*th February*, 1809.

[Extinct.]

A.D. 1809. REGULATION III.

A REGULATION *to amend the existing Rules for receiving Complaints in the Zillah Courts against Collectors of the Land Revenue and Customs, Commercial Residents, and other European public Officers declared amenable to those Courts for Acts done in their official Capacity in Opposition to any published Regulation, and to make further Provision for a special Inquiry in certain Cases of Charge or Information against any such Officers:* PASSED *by the Governor in Council of Fort St. George, on the* 17*th February*, 1809.

[Rescinded by Section II., Regulation VIII., 1822, and again by Section I., Act XIII., 1843, which repealed Regulation VIII., 1822.]

A.D. 1809. REGULATION IV.

A REGULATION *for the Amendment of certain Parts of the Provisions contained in Clauses Second and Third, Section XIX., Regulation VI., A.D.* 1802, *and also of the Rule contained in Clause Seventh, Section XVI., Regulation III., A.D.* 1802: PASSED *by the Governor in Council of Fort St. George, on the* 17*th February*, 1809, *corresponding with the* 8*th Masi*, 1728*th year of Salwahana, and with the* 1*st Muharram*, 1224 *Hijra.*

WHEREAS it is advisable that the Governor in Council should be regularly informed of any offences of a criminal nature committed by European British subjects residing in the interior of the country; and whereas it has been deemed expedient to modify certain parts of the provisions contained in Clauses Second and Third, Section XIX., Regulation VI., A.D. 1802,* and also of the provisions contained in Clause Seventh, Section XVI., Regulation III., A.D. 1802, the following rules have been enacted, to be in force from the period of their promulgation throughout the territories subject to the immediate Government of the Presidency of Fort St. George.

* Rescinded by Sec. ii., Reg IX., 1816

II. Whenever a zillah magistrate, who shall have taken the oaths of qualification as a justice of the peace, shall hold any British European subject to bail, or shall deem it necessary to commit any such person to the jail of Madras to take his trial before the Supreme Court of Judicature for any offence of a criminal nature, the magistrate shall transmit the original depositions taken on the occasion (together with translations of any papers not being in the English language) to the clerk of the Crown. The magistrate shall likewise transmit copies of the said depositions

Cases in which magistrates are to transmit to the clerk of the Crown and to Government depositions and translations of papers respecting European British subjects held to bail or committed to the jail of Madras

(together with translations of any papers not being in the English language) to the secretary to the Government in the judicial department, for the information of the Governor in Council, who in cases in which he shall consider it to be necessary, from the aggravated nature of the offence charged against the person accused, or on any other substantial ground, will order the prosecution to be conducted by the law officers of Government and at the public expense.

Cases in which magistrates are to send accused persons of the above description with the witnesses to his Majesty's justices of the peace at Madras.

III. Whenever a European British subject shall be charged before a zillah magistrate who has not* taken the oaths of qualification as a justice of the peace, with a criminal offence, which, according to the law of England may not be bailable, and the magistrate, after making the necessary inquiry on the subject, shall be of opinion that there are grounds for bringing the person accused to trial before the Supreme Court of Judicature, the magistrate shall send the person accused, under safe custody, to His Majesty's justices of the peace at the Rotation Office in Madras, accompanied by the witnesses against the prisoner, with a letter stating the nature of the case, and requesting that the said justices will take the necessary measures for bringing the person accused to trial before the Supreme Court of Judicature. The magistrate by whom the prisoner may be sent to Madras shall at the same time transmit a copy of all the proceedings held on the occasion (together with translations of any papers not being in the English language) to the secretary to the Government in the judicial department, to enable the Governor in Council to determine whether the prosecution should be undertaken by the law officers of Government, and at the public expense or otherwise.

Proceedings and translations of papers to be forwarded to Government

Magistrates how to proceed in cases in which persons of the above description are charged with bailable offences.

IV. Whenever any person shall charge a European British subject before a magistrate who has not* taken the oaths of qualification as a justice of the peace, with a bailable offence, it shall be the duty of the magistrate to explain to the complainant the course which he should pursue for the purpose of obtaining redress—that is, by application to the justices of the peace at Madras or to the grand jury. It shall likewise be the duty of the magistrate, after calling upon the person accused for his reply to the complaint, to report the case to the Governor in Council; at the same time stating, on a consideration of the distance at which the parties may reside from the Presidency, of the poverty of the complainant, or of other circumstances, whether it would in the opinion of the magistrate be proper that the expense of the prosecution should be defrayed by Government. The Governor in Council, on receipt of such report, will pass such orders on the subject as may appear to him to be advisable; and will at the same time direct, in cases which may appear to require it, that the prosecution shall be conducted by the law officers of the Company.

Clause Seventh, Section XVI., Regulation III., A.D. 1802, modified.

V. Clause Seventh, Section XVI., Regulation III., A.D. 1802, prescribes rules for the guidance of the *zillah* judges with respect to the charge of the unclaimed assets of estates of Europeans dying intestate. It being, however, enacted in Statute 39 George III., Chapter 79,

* By Section xlvii., Reg. IX., 1816, all magistrates are required to qualify as justices of the peace within three months after their appointment as magistrate; and by Act XVI., 1841, they may qualify before any Civil or Criminal Court of Justice.

Section 21, that whenever any British subject shall die intestate, and neither a creditor nor the next of kin shall apply for letters of administration, the register of the Supreme Court shall administer to the estate of the deceased, it shall be the duty of the *zillah* judges, whenever any British European subject shall die within the limits of their jurisdictions, and no will shall be found among the effects of the deceased, to report the circumstance without delay to the register of the Supreme Court of Judicature, retaining the property under their charge until letters of administration shall have been obtained by that officer, or by some other person, from the Supreme Court of Judicature, when the property is to be delivered over to the person obtaining such letters, or in the event of a will being subsequently discovered, to the person who may obtain probate of the will.*

Judges to report to the register of the Supreme Court respecting estates of deceased British European subjects, retaining in the mean time the property under their charge

* The Act 55 Geo. III., c. 84, s ii., provides that administration shall be granted to the attorneys of absent persons entitled to administration preferably to the Register of the Supreme Court.

A.D. 1809. REGULATION V.

A REGULATION *for levying an additional Duty on Betel Nut imported into Madras, either by Sea or Land; for determining the Amount of Duty, and for defining the Rules under which the Duty shall be collected:* PASSED *by the Governor in Council of Fort St. George, on the 17th February,* 1809.

[Rescinded by Section V., Regulation II., 1812.]

A.D. 1809. REGULATION VI.

A REGULATION *for the Support of the Police in the Cantonments and Military Bazars; for defining the Powers of the Civil and Military Officers in the Performance of that Duty, and for fixing the Local Limits of the said Cantonments and Bazars:* PASSED *by the Governor in Council of Fort St. George, on the 5th May,* 1809.

[Rescinded by Section II., Regulation VI., 1821, and again by Section II., Regulation VII., 1832, which rescinded Regulation VI., 1821.]

A.D. 1809. REGULATION VII.

A REGULATION *for the occasional Appointment of Assistant Judges of the Zillah Courts; for altering and extending the Jurisdiction of the Registers of these Courts; for fixing a new Limitation of Appeals from the Zillah Courts to the Provincial Courts of Appeal; for authorizing the Appointment of Head Native Commissioners for the Trial of referred Causes to the Amount or value of One Hundred Arcot Rupees, and for amending the existing Rules concerning the Appointment and Powers of Native Commissioners for the Trial of Suits for Personal Property not exceeding Eighty Arcot Rupees:* PASSED *by the Governor in Council of Fort St. George, on the* 30*th May,* 1809, *corresponding with the* 19*th Vyasei,* 1729*th year of Saliwahana, and with the* 14*th Rabi-us-sani,* 1224 *Hijra.*

Preamble.

THE number of civil causes depending before the judges of some of the Zillah Courts being so considerable that great delay must occur in the investigation and decision of them, and of other causes that may be instituted previous to their determination, unless some provision be made to expedite the same, and the accumulation of such causes having chiefly proceeded from accidental circumstances, the effect of which may be removed by a temporary arrangement for the trial and decision of the causes in arrear, without a permanent alteration of the established jurisdictions, it is expedient that provision be made for the occasional appointment of an assistant judge to assist in the trial and decision of causes depending before the judge of any Zillah Court in which such an appointment is now required under the circumstances above stated, or may hereafter become requisite under a recurrence of similar circumstances. To expedite the general administration of justice in the Zillah Courts, it is also expedient that the judges should be empowered to refer for trial, in the first instance, to their registers, suits exceeding in amount or value the sum to which they are at present restricted in such references; and that the appointment of a head native commissioner should be authorized in any zillah wherein such appointment may appear advisable for the trial of any suits which the judge may refer to him, not exceeding in amount or value the sum of one hundred Arcot rupees. To enable the zillah judges to maintain the most efficient control over the native commissioners of every description acting under them in the administration of justice, and to bring the official conduct of such commissioners in all cases before the judges, as well as to enable the parties in every suit tried in the first instance by a native commissioner, to obtain on appeal a further trial and decision by the zillah judge, it is at the same time deemed proper to discontinue the appellate jurisdiction, which by Section XIX. of Regulation XII., 1802, was vested in the registers of the Zillah Courts for the trial of appeals from decisions of the native commissioners, when the property in dispute might not exceed twenty-five Arcot rupees. And as suits within this amount tried by the register, or by the judge in the first instance, may sometimes involve questions of a general and important nature, wherein an erroneous decision, not revocable by appeal, might be of serious ill consequence, it is further judged expedient to rescind

Section IX., Regulation XII., 1802, whereby the decision of the register was made final in suits not exceeding the above amount, and Section XXI., Regulation II., 1802, whereby a limitation of appeals to the Provincial Courts was established, and to enable the Provincial Courts of Appeal to admit, upon sufficient cause, a special appeal in all cases that may appear to require it, wherein a regular appeal is declared not to be open to them from the decisions of the Zillah Courts. By Clause Eight, Section III., Regulation XVI., 1802, the selection of native commissioners to be invested with the powers of munsiff (with an exception to the commissioners in large towns and bazars, whom the Court of Sudder Adawlut are authorized by Clause Ninth to empower to act as munsiffs, and to define their jurisdiction) is restricted to proprietors or farmers of land, and their under-renters or officers employed by them in the management of their estates or farms, and the native officers employed by Government in the collection of the land revenue. Their original jurisdiction as munsiffs is also limited to the cognizance of suits preferred to them against under-renters or ryots in the estate, farm, or mehal, in virtue of which they may have been invested with the office of commissioner, or to which their jurisdiction may be extended by the Court of Sudder Adawlut. The powers of munsiff, thus specially authorized, were chiefly intended for the assistance of the landholders and farmers of land in the recovery of arrears of rent from their under-tenants; but more effectual means for this purpose have been provided by Regulation XXVIII., 1802, whereby the levy of distress for arrears of rent has been facilitated, and if this be insufficient, or if the landholders and farmers should not be desirous of having recourse to it, they are enabled to cause the immediate arrest of the defaulting tenant and his surety, their confinement on a summary inquiry by the judge of the district till the arrears due from them be discharged, and the attachment of the farm, or other tenure of the defaulter. It is therefore not necessary to continue the office of munsiff for the particular aid of the landholders and farmers in the recovery of arrears of rent; and abuses which may arise from the indiscriminate exercise of the powers of munsiff by the descriptions of persons specified in the clause above cited, shew the expediency of restricting them to the functions of referee and arbitrator, unless in particular instances, from the character and known qualifications of the person appointed to act as commissioner, it should be judged proper to select him for the office of munsiff. The general convenience of the inhabitants, especially of those who reside at a distance from the Zillah Courts, will, however, be much promoted by the appointment of well-qualified persons, with the original jurisdiction of munsiffs, for the cognizance of all suits preferred to them for money, or other personal property, within the present limitation of eighty Arcot rupees, not being for damages on account of personal injuries, or other personal damages, for which no suit should be tried by a native commissioner without reference from the judge. To provide accordingly for the several objects above stated, and, at the same time, to amend some of the existing rules for the trial of suits cognizable by the native commissioners, as well as to make further provision for promoting the general and speedy administration of civil justice, the Governor in Council has enacted the following regulation, to be in force from the promulgation of it, in the provinces dependent on Fort St. George.

II. to V. [Rules for the appointment of an assistant judge when required in aid of the zillah judge.]—*Superseded by Section LII., Act VII.*, 1843.

VI., VII., VIII. [Rules for the judicial functions of zillah registers in respect of suits referred to them, and of appeals from their decisions.]—*Superseded: the office of zillah register having ceased to exist. Section VIII. is specially rescinded by Section III., Regulation XV.*, 1816.

IX. to XII. [Powers and duties of head native commissioners, and practice in their courts.]—*Rescinded by Section II., Regulation VIII.*, 1816.

XIII. *Clauses* 1*st* and 2*nd*. [Fees payable to head native commissioners.]—*Rescinded by Section II., Regulation VIII.*, 1816.

XIII. *Clauses* 3*rd*, 4*th*, and 5*th*. [Fees payable to native commissioners.]—*Rescinded by Section II., Regulation VI.*, 1816.

XIV. to XX. [Appointment, powers, and duties of native commissioners, and practice in their courts.]—*Rescinded by Section II., Regulation VI.*, 1816.

XXI. [What process may be signed by zillah registers.]—*Superseded: the office of zillah registers having ceased to exist.*

Judges of *Zillah* Courts further authorized to employ *their registers and assistants, or* any of their principal native officers, in taking the depositions of witnesses.

Provisions under which the depositions are to be so taken.

XXII. *First* The judges of the *Zillah* Courts are further authorized to employ [*the registers and assistants, or*] any of their principal native officers, in taking down the depositions of witnesses whom they may not have time to examine vivâ voce themselves, provided that such depositions be taken in open court in the presence of the parties or their authorized pleaders, whose attestations shall be subscribed to all depositions so taken, in testimony of their having been present; and if any dispute or question shall arise in the course of taking the evidence of a witness so examined, the judge shall immediately, or as soon as practicable, hear and inquire into the same, in the presence of the witness and of the parties or their pleaders, and shall pass such order thereupon as may appear to him proper.

Second. [Like power given to registers in their courts.]—*Superseded: the office of zillah register having ceased to exist.*

XXIII. [Rules respecting appeals from decisions of native commissioners.]—*Rescinded by Section II., Regulation VI.*, 1816.

Section XXI., Regulation II., 1802, rescinded.

XXIV. Section XXI., Regulation II., 1802, is rescinded.

[Of the appeal from the Zillah to the Provincial Court.]—*Superseded by Sections VIII. and IX., Act VII.*, 1843.

XXV. [Extension of the powers vested in the Provincial Courts in respect of summary appeals by Clause Twelve, Section XII., Regulation IV., 1802.]—*The clause referred to is rescinded by Clause First, Section V., Regulation XV.*, 1816. *See Section IX., Act VII.*, 1843.

XXVI. [Rules for the admission of special appeals to the Provincial Courts.]—*Superseded by Act III.*, 1843.

XXVII. [Rules not to affect appeals then pending or admissible.]—*No longer applicable.*

XXVIII. [What summary appeals admissible under this regulation.]—*Rescinded by Clause First, Section V., Regulation XV.*, 1816.

XXIX. [Sudder Adawlut authorized to admit special appeals in like manner as Provincial Court under the rules of Section XXVI. Rules for their admission.]—*Superseded by Act III.*, 1843.

XXX. [Period for appealing, how to be calculated.]—*Rescinded by Section II., Regulation VI.*, 1828.

XXXI. In all original suits or appeals wherein Government may be one of the parties, the court which may pass judgment, whether for or against Government, shall, in addition to the copies of decrees required by the existing regulations to be delivered to the parties, transmit a copy of the decree, as soon as the same can be prepared, to the secretary to the Government in the judicial department for the information of the Governor in Council; such copies of decrees are not required to be upon stamped paper, but are to be duly authenticated by the official seal and signature of the judges by whom the same may have been passed, *and are to be accompanied with an English translation.*

See Cl 2, Sec xv, Reg. XV, 1816.

In suits and appeals wherein Government may be one of the parties, a copy of the decree to be sent, as soon as it can be prepared, to the secretary to Government in the judicial department.

Such copies of decrees not required to be upon stamped paper, but to be duly authenticated and accompanied with translations.

XXXII. and XXXIII. [Rates of pleaders' fees.]—*Rescinded by Section II., Regulation XIV.*, 1816.

XXXIV. [Security to be taken from pauper suitors.]—*Rescinded by Section II., Regulation VII.*, 1818.

XXXV. [Institution fee to be returned in certain appeals.]—*Rescinded by Section II., Regulation XIII.*, 1816, *and Section II., Regulation II.*, 1817.

XXXVI. [Punishment of litigious pauper suitors.]—*Rescinded by Section II., Regulation VII.*, 1818.

A.D. 1809. REGULATION VIII.

A REGULATION *for defining the Duties to be performed and Powers exercised by single Judges of the Provincial Courts of Appeal in the absence of the other Judges of the Court; and for empowering the Governor in Council to grant a temporary Exemption to covenanted Civil Servants of the Company, holding certain Offices, from the Obligations of that part of the Oath prescribed to be taken by certain Descriptions of Public Officers, which prohibits their being concerned in Commercial Transactions:* PASSED *by the Governor in Council of Fort St. George, on the* 30*th May*, 1809.

II. to VI. [Powers of single judges of Provincial Courts.]—*Superseded by the provisions of Act VII.*, 1843.

VII. to X. [Special rules concerning covenanted servants who had engaged in commercial transactions.]—*Extinct.*

A.D. 1809. REGULATION IX.

A REGULATION *for transferring the District of Hoosoor to the Jurisdiction of the Zillah Court of Salem:* PASSED *by the Governor in Council of Fort St. George, on the* 30*th May*, 1809.

[Superseded by Regulation I., 1821, and Section LIII., Act VII., 1843.]

A.D. 1809. REGULATION X.

A REGULATION *for the Appointment of the Mahomedan and Hindoo Law Officers of the Zillah and City Courts to be Commissioners for the Trial of referred Causes to the Amount or Value of One Hundred Rupees, and to make further Provision for the Appointment of Head Native Commissioners in the several Zillahs and Cities:* PASSED *by the Governor-General in Council at Fort St. George, on the* 17*th November*, 1809.

[Rescinded by Section II., Regulation VIII., 1816.]

A.D. 1809. REGULATION XI.

A REGULATION *to provide, in certain Cases, for the Trial of Native Subjects of the British Government who may be charged with Crimes or Misdemeanors committed in Places out of the Limits of the British Provinces:* PASSED *by the Governor-General in Council of Fort St. George, on the* 17*th November*, 1809.

[Rescinded by Section II., Regulation II., 1829.]

A.D. 1809. REGULATION XII.

[FRAMED UPON REGULATION XII., 1808, OF THE BENGAL CODE.]

A REGULATION *for rendering Civil Causes which are appealable to the Court of Sudder Adawlut, cognizable, in the first instance, by the Provincial Courts; and for authorizing the execution of Decrees appealed from, in certain Cases:* PASSED *by the Governor-General in Council of Fort St. George, on the* 17*th November*, 1809, *corresponding with the* 4*th Kartikei of the year Sukla,* 1730*th year of Saliwahana, and with the* 8*th Shawal,* 1224 *Hijra.*

Preamble.

UNDER the rules in force, all causes of a civil nature which may not be especially referred, under the regulations, for trial, in the first instance, by the Provincial Courts are instituted in the Zillah Courts, excepting suits for personal property not exceeding eighty Arcot rupees, which may be received by the native commissioners vested with the authority of munsiffs. In all cases tried by the zillah judges in the first instance, an appeal from their decisions lies to the Provincial Courts; and if the cause of action exceed five thousand Arcot rupees, a further appeal is open to the Court of Sudder Adawlut. In consequence of the second appeal allowed in the cases last mentioned, considerable delay frequently occurs in the final determination of contested claims to large estates and other valuable property; much injury to the rightful owners is often occasioned by such delays, and the expense to all parties is increased without any adequate benefit. The person against whom the judgment is given, whether by a Zillah or Provincial Court, is seldom willing to abide by it whilst he is at liberty to appeal. And the general option given to appellants, by the existing regulations, to retain possession of property adjudged, until a final decree be passed, under security for the performance of such final decision, has been found to encourage litigious and groundless appeals for the sole purpose of keeping possession of the property in dispute, to the prejudice of the real proprietor. To provide against this abuse, it is expedient that whenever the person to whom lands, houses, or other immovable property may be adjudged, shall be able to give the prescribed security for performing the judgment to be passed on an appeal, he should obtain immediate possession of the property adjudged to him, notwithstanding the appeal, unless special cause appear to the satisfaction of the Court of Appeal for leaving the appellant in possession, until the appeal be determined upon. And for the reasons above stated, it is advisable that all causes ultimately appealable to the Sudder Adawlut should be made originally cognizable by the Provincial Courts. In addition to the advantage which the parties in such causes will derive from this measure, it may be expected that it will promote the speedy decision of other suits cognizable in the Zillah Courts, by relieving the judges of a part of their present duty. At the same time it will be requisite, as well for the convenience of witnesses residing at a distance from the stations of the Provincial Courts, as to prevent too great an accumulation of business in

those courts, that a discretionary power should be, under certain limitations, vested in them, of causing the depositions of witnesses to be taken in the Zillah Court, or before the judge of the Provincial Court who may proceed upon the half-yearly circuit. For these purposes the Governor-General in Council has enacted the following rules, to be in force as soon as promulgated in the several provinces immediately subject to the Presidency of Fort St. George.

Part of existing regulations vesting original jurisdiction in Zillah Courts in regular civil causes of amount or value exceeding 5,000 rupees hereby rescinded.

II. Such part of the existing regulations as vests original jurisdiction in the Zillah Courts of Adawlut, for the institution, trial, and decision of regular civil suits, in which the cause of action may exceed five thousand Arcot rupees, viz. for malqoozary land, the computed annual produce of which, as described in Section III., Regulation III., 1802, *may exceed five thousand Arcot rupees; or for lakhiraj land, the computed annual produce of which may exceed five hundred Arcot rupees, or for a house, tank, garden, or any other description of immovable property, the computed value of which may exceed five thousand Arcot rupees; or for money, effects, or other moveable property, exceeding in amount or value the sum of five thousand Arcot rupees, is hereby rescinded.*

Virtually superseded by Sec. iii., Act VII., 1843, but retained in consequence of the reference in Sec. ii., Reg. XV., 1816.

III. [Original jurisdiction in suits above five thousand rupees vested in the Provincial Courts.]—*Superseded by Sections I. and III., Act VII.,* 1843.

Disputes between parties respecting causes instituted in a *Zillah* Court, being cognizable or not by such court under this regulation, by whom and under what rules to be decided.

IV.* *First.* If the plaintiff in a *Zillah* Court shall state his cause of action as not exceeding *five thousand Arcot rupees*, and the defendant shall, in answer, deny such statement, and allege the produce, amount, or value to be such as to render the suit not cognizable by the *Zillah* Court under this regulation, the judge of *that* court, previously to entering upon any investigation of the merits of the cause, shall make such inquiry as may appear necessary to ascertain whether the suit be, or be not, receivable in the *Zillah* Court, and shall pass an order accordingly, leaving either party, who may be dissatisfied therewith, to prefer a summary appeal therefrom to the *Provincial* Court, whose decision shall be final upon the question whether the suit be cognizable or not in the *Zillah* Court; but no such objection to the plaintiff's statement of the cause of action shall be received from the defendant unless offered, in the first instance, in answer to the plaint; nor shall any appeal from the order of the *Zillah* judge, in such cases, be open to the *Provincial* Court, unless preferred within one month after the order appealed from is passed; or unless sufficient reason be assigned to the satisfaction of the *Provincial* Court why it was not preferred within that period.

See Cl. 2, Sec. xxiv., Reg. XIII., 1816.

Petition of appeal from an order passed on this subject by *zillah* judge, where to be presented: and *zillah* judge how to proceed if the same be presented to him.

Second. The petition of appeal from the order of a *zillah* judge, declaring a suit admissible or not admissible in the *Zillah* Court, may be preferred, at the option of the appellant, either to the court passing the order appealed from, or to the *Provincial Court of the division;* and in the former case, the *zillah* judge shall immediately transmit the petition, with

* The principle of this and the following section is now applicable to the relative jurisdiction of the new Zillah Courts, established under Act VII., 1843, and the Subordinate Courts instituted by Regs. I. and VII., 1827—the jurisdiction of the former embracing all original suits for 10,000 rupees and upwards. See Secs. III. and IV., Act VII., 1843.

all papers and proceedings relative thereto, for the determination of the *Provincial* Court, until the receipt of which, no further proceedings upon the cause shall be held in the *Zillah* Court.

Substitute "stamp duty." See Sec. XIII., Reg XIII., 1816

Third. No [*institution fee*] shall be demandable upon the summary appeals referred to in this section.

What part of the usual fees to be paid on these appeals, and by whom.

[Amount of fees to be awarded to pleaders.]—*Superseded by Section VII., Act I.*, 1846.

Disputes between parties respecting any cause instituted in a *Provincial* Court, being cognizable or not in the first instance by that court, how and under what rules to be decided.

V.* *First.* In suits which may be instituted in the *Provincial* Court, if the plaintiff shall state his cause of action to exceed five thousand *Arcot* rupees, and the defendant shall, in answer, deny such statement, and allege the produce, amount, or value to be such as to render the suit cognizable by the *Zillah* Court in the first instance, the *Provincial* Court shall cause such inquiry to be made as may appear necessary to ascertain whether the suit be cognizable in the *Zillah* or *Provincial* Court under the provisions of this regulation, and the determination of the *Provincial* Court upon this point shall be final; provided that no such objection to the plaintiff's statement of the cause of action shall be received from the defendant unless offered in answer to the plaint in the first instance.

If decided, to be cognizable by a *Zillah* Court; to be instituted de novo in such court.

Second. In the cases provided for in this section, if the *Provincial* Court determine that the suit is cognizable in the *Zillah* Court, the [*institution fee*] paid by the plaintiff shall be returned to him; and he shall be left to institute his suit de novo in the *Zillah* Court.

Substitute "stamp duty." See Sec XIII., Reg. XIII, 1816

[Amount of fees to be awarded to pleaders.]—*Superseded by Section VII., Act I.*, 1846.

VI. *First and Second.* [Provision for the disposal of suits pending at the time of passing Regulation XII., 1809.]—*Extinct.*

Third. [What fees to be paid to a pleader first retained when another is substituted.]—*Superseded by Clause Fifth, Section XVIII., Regulation XIV.*, 1816.

The provisions of this regulation not applicable to summary suits, of whatever amount.

VII. The provisions in this regulation having reference only to regular suits, such as those to which the rules contained in Regulation III. of 1802 are applicable, all summary suits authorized by the regulations, [*whether for recovering the possession of land or other property in cases of forcible dispossession, under Regulation XXXII., A.D.* 1802, *or for the speedy realization of arrears of rent, under Regulation XXVIII., A.D.* 1802,] or for any other purpose in which a summary process is sanctioned by the regulations, shall be cognizable, *as heretofore, in the Zillah Courts*, whatever may be the produce, amount, or value of the land or other property in dispute.

Superseded by Sec II, Reg. V, 1822

Rules, in addition to those in force, for the guidance of *Provincial* Courts with respect to taking depositions of witnesses.

VIII. The judges of the *Provincial* Courts are already empowered by the regulations either to examine themselves the witnesses produced before them, [*or to authorize their registers to take the depositions of such witnesses, in the mode prescribed by Section XVIII., Regulation IV.*, 1802.†] The judges of the *Provincial* Courts are farther hereby empowered to

* See Note to the preceding section.

† Superseded by the transfer of the duties of Provincial Courts to the new Zillah Courts, to which no registers are attached.

employ [*their assistants or*] any of their principal native officers to take the depositions of witnesses whom they may not have time to examine vivâ voce themselves, in like manner as the judges of the *Zillah* Courts are authorized by Clause First, Section XXII., Regulation VII., A.D. 1809, and under the provision therein stated.

IX. [Rules for the examination of absent witnesses.]—*Repealed by Section I., Act VII.*, 1841.

X. [Provincial Courts may delegate the examination of witnesses to judges on circuit.]—*Superseded by the abolition of Courts of Circuit under Act. VII.*, 1843.

Modification of existing rules for staying the execution of decrees during appeal in causes for immovable property.

XI. *First.* Such part of the existing regulations as directs that decrees appealed from, in cases of land, houses, or other immovable property, adjudged against the appellant, shall not be carried into execution during the appeal, provided the appellant give good and sufficient security for performing the decree which may be passed upon the appeal, in a sum equal to one year's produce of the property adjudged, is hereby modified, as follows:—

Persons suing for such property and obtaining a decree for it to have possession notwithstanding an appeal, on giving prescribed security.

Second. Whenever a person claiming the proprietary right in land, houses, or other immovable property not in his possession, shall obtain a decree, upon investigation of the merits of the case (whether in a *Zillah* Court or in a *Provincial Court of Appeal* before which the suit may be tried in the first instance), adjudging him to be the proprietor of such land, houses, or other immovable property, he shall obtain possession thereof in execution of such decree, notwithstanding an appeal therefrom; provided he shall give good and sufficient security for performing the decree which may be passed upon the appeal, in a sum equal to one year's produce of the property adjudged if malgoozary land, or ten years' produce if the land be lakhiraj, or the computed value if it be a house or immovable property of any other description.

Modified by Cl. 4, Sec. xiv., Reg. XV., 1816.

Unless the court to which the appeal is preferred see cause for allowing the appellant to retain possession.

Third. Provided, however, that if the court to which the appeal may be preferred in such cases shall, in any instance, see special cause for leaving the appellant in possession during the appeal, it shall be competent to that court to order the same, requiring, in such case, from the appellant the same security as is above required to be given by the respondent.

Provision for cases on non-payment of revenue of disputed lands during an appeal.

Fourth. Provided further, that, whether the appellant or respondent be left in possession of lands paying revenue to Government during an appeal, if the party in possession of such lands shall neglect to pay the revenue due upon the assessment, and a public sale shall in consequence be ordered to take place, the party not in possession, by payment of the revenue due and giving the prescribed security, previously to the sale, shall be put in immediate possession, and shall be entitled to charge the amount so paid, with interest thereupon, at the rate of one per cent. per mensem, in any adjustment of accounts which may be directed in the final decree upon the cause.

Present rules for staying the execution of decrees during appeal, in causes for

XII. *First.* The provisions contained in the preceding section not being applicable to the execution of decrees for money or other moveable property, such decrees shall be stayed or enforced, in cases of appeal,

according to the rules now established, with the following addition thereto.

moveable property, to remain in force with following addition.

Second. The security to be given by appellants for staying the execution of decrees appealed from, in cases of money or other moveable property, or by respondents when such decrees are carried into execution during an appeal, shall be sufficient, in addition to the amount or value adjudged, to cover the interest that may be expected to arise upon the amount payable under the decree, if confirmed in appeal, according to the provisions for adjudging interest in such cases made by Section XXXV., Regulation IV., A.D. 1802.

What security to be given by appellants in such causes.

XIII. The judges of the several courts, by which security may be taken from appellants or respondents for performing the decrees to be passed on appeals, are enjoined to be particularly careful in ascertaining that the security received is good and sufficient, and they are required, in all cases, to cause the nazir or other officers, by whom the property of the sureties may be ascertained, to deliver in as accurate a statement as can be obtained of such property, with a full report of the inquiry made respecting it, informing him at the same time that he will be held responsible for any wilful misrepresentation in his statement or report.

Judges taking security in cases of appeal to be careful that it be good and sufficient.

Measures to be adopted for this purpose.

See Regulation II., 1811, *and Section XIII., Regulation XV.*, 1816, *for further rules respecting securities in appeals.*

A.D. 1809. REGULATION XIII.

A REGULATION *for the Apprehension of Persons concerned in the Offence of Gang Robbery, and especially the Sirdars or Leaders of Gangs of Dacoits:* PASSED *by the Governor-General in Council at Fort St. George, on the* 17*th of November*, 1809.

[Rescinded by Section II., Regulation IX., 1816.]

A.D. 1809. REGULATION XIV.

A REGULATION *for the conduct of Persons manufacturing Saltpetre in the Territories subject to the Presidency of Fort St. George, for establishing a Monopoly of that Article, and for fixing a Price on the Sales for Home Consumption:* PASSED *by the Governor-General in Council at Fort St. George, on the* 15*th of December*, 1809.

[Rescinded by Section VI., Regulation V., 1821.]

A.D. 1810. REGULATION I.

A REGULATION *for providing against resistance to the Processes of the Zillah Criminal Courts, as well as for compelling the Appearance of Persons charged with Acts of a Criminal Nature who may abscond or otherwise evade the Process issued against them; for extending and explaining the Rules contained in Section XXIII., Regulation VI.,* 1802, *and in Section XXIII., Regulation VIII.,* 1802; *and for putting a Stop to the Practice of Parties in Civil Suits preferring unfounded Accusations of Perjury against the Witnesses in such Suits, and unfounded Charges of Subornation of Perjury against the Adverse Parties in such Suits:* PASSED *by the Governor-General in Council at Fort St. George, on the* 27*th of March,* 1810, *corresponding with the* 16*th Panguni of the year Sukla,* 1730*th year of Saliwahana, and with the* 20*th Safar,* 1225*th Hijra.*

Preamble.

WHEREAS the rules laid down in Regulation III., 1802, for punishment of resistance to the processes of the Zillah Civil Courts not having been extended to the Criminal Courts, nor any rule prescribed for compelling the appearance of persons charged with acts of a criminal nature who may abscond or otherwise evade the processes issued against them, experience has shewn the necessity of a provision for these cases, both to maintain the just authority of the magistrates and to prevent any evasion of their processes by flight, concealment, or otherwise; and whereas it has been judged expedient to extend and explain the rule contained in Section XXIII., Regulation VI., 1802, whereby it is declared that a reward of ten rupees shall be paid for every dacoit or robber apprehended and convicted, and the rule contained in Section XXIII., Regulation VIII., 1802, establishing the punishment to which guards having the custody of convicts who escape are liable for neglect or connivance; and whereas it has become necessary to put a stop to the practice, which has been found to prevail, for parties in civil suits to prefer unfounded charges of perjury against the witnesses of their opponents, and against their own witnesses where their evidence does not establish every point they may have been brought to prove, and similar charges of subornation of perjury against the adverse parties in such suits, which accusations are occasionally supported by gross perjury on the part of the witnesses produced in support of them, and unless checked, will deter all men of respectability from appearing to give testimony on oath in any court of justice, except on compulsion; and whereas the only effectual remedy that can be applied to this abuse is to take away altogether from parties in civil suits the right of bringing forward such accusations, and to leave it in the discretion of the judge to determine when any witnesses brought before him are guilty of perjury, which he may always be able to do by cross-questioning them minutely, and by confronting them, when necessary, with the witnesses of the adverse party; wherefore the Governor-General in Council has enacted the following rules, to be in force so soon as promulgated throughout the provinces subject to the presidency of Fort St. George.

II. to V. [Rules of procedure in cases of resistance or evasion of the process of magistrates.]—*Rescinded by Section II., Regulation IX.*, 1816.

VI. [Extension of the power to offer rewards given to magistrates by Section XXXII., Regulation VI., 1802.]—*The Regulation referred to is rescinded by Section II., Regulation IX.*, 1816, *and a new rule enacted by Section XXI. of that Regulation.*

Provision for the trial and punishment of guards in charge of convicts by martial law, in certain cases when such guards shall be furnished by a provincial battalion (subject to martial law) or by a regular corps of the army.

VII. *First.* Provision is made by Section XXIII., Regulation VIII., 1802, for the punishment of guards in charge of convicts who may have escaped, and in certain cases, for committing or holding such guards to bail for trial before the *Court of Circuit.* This provision is extended to guards having had charge of prisoners who may have escaped from their custody, whether before or after conviction, but shall not be considered applicable to military guards from any provincial battalion (subject to military law) or from any regular corps of the army. Whenever it shall appear to a magistrate that a guard, furnished by a provincial battalion, or by any regular corps of the army, has been guilty of wilful neglect in guarding the prisoners under his charge, or in conniving at the escape, or the attempt to escape, of any prisoner, or of any other act of a criminal nature in the discharge of his duty, the magistrate shall cause the offender to be delivered over to the officer commanding the provincial battalion or the detachment to which he may belong, with a charge in writing that he may be tried, and punished on conviction, by a court martial.

The foregoing rule not applicable to charges against such guards which are cognizable in the Civil Courts

Second. The mode of proceeding against military guards directed in the preceding clause shall be observed, with respect to any other offence involving a breach of military duty, and properly cognizable by courts martial, but shall not be held applicable to any criminal charge against such guards or other sepoys, whether belonging to any provincial battalion or a regular corps of the army, which may not involve a breach of military duty, and the cognizance of which may therefore appertain to the Civil Courts.

VIII. [Charges of perjury by parties in civil suits not to be received.] —*Rescinded by Section II., Regulation IX.*, 1816.

A.D. 1810. REGULATION II.

A REGULATION *for extending to the Judicial Department such Parts of Regulation III.*, 1809, *as are applicable to Charges or Informations against the European Public Officers employed in that Department, and for making further Provisions in such Cases:* PASSED *by the Governor in Council of Fort St. George, on the 6th November*, 1810.

[Rescinded by Regulation VIII., 1822, and again by Section I., Act XIII., 1843, which repealed Regulation VIII., 1822.]

A.D. 1810. REGULATION III.

A REGULATION *for facilitating the Progress of Detachments of Troops through the Company's Territories, for affording any requisite Assistance to Persons travelling through the Territories, and for the Guidance of the Civil Officers in applying for Military Guards:* PASSED *by the Governor in Council of Fort St. George, on the 6th November*, 1810.

[Rescinded by Section II., Regulation VI., 1821, and again by Section II., Regulation VII., 1832, which rescinded Regulation VI., 1821.]

A.D. 1811. REGULATION I.

A REGULATION *for providing a Quarterly Jail Delivery in the Zillahs of Masulipatam, Chittoor, Trichinopoly, and North Malabar:* PASSED *by the Governor in Council of Fort St. George, on the 11th January*, 1811.

[Superseded by Sections XXVI. and XXVII., Act VII., 1843.]

A.D. 1811. REGULATION II.

A REGULATION *for explaining and amending in certain Cases the Rules of Process to be observed by the Civil Courts of Judicature, and for amending the Rule contained in Clause Fourth, Section IV., Regulation V., A.D.* 1808: PASSED *by the Governor in Council of Fort St. George, on the* 15*th January*, 1811, *corresponding with the* 4*th Tai of the year Pramoduta*, 1731*st year of Saliwahana, and with the* 19*th Zihijja*, 1225*th Hijra.*

Preamble.

BY the regulations in force for the guidance of the Zillah Courts, one uniform process is prescribed for causing the appearance of all defendants in civil suits, not being Hindoo or Mahomedan women of rank or quality, such as according to the custom of the country would render it improper to compel them to appear in an open Court of Justice. The original process so prescribed, is a summons on the defendant, requiring him to accompany the officer deputed to serve it, or to deliver sufficient security to appear in person or by vakeel, and answer to the complaint against him on a day appointed. In the event of the defendant's being found, and his not giving the required security, the officer charged with the summons is to take his person into custody, and bring him before the court, which is empowered to commit him to close custody until he shall give the requisite security, or perform the decree which may be passed upon the complaint against him. For the relief of defendants in suits instituted by paupers, the judges of the Zillah Courts were authorized by Section XXXIV., Regulation VII., 1809, to fix the extent of the security to be required for the appearance of the defendant; with directions, whatever may be the claim of the plaintiff, to demand from the defendant such security only as may appear necessary to secure his appearance during the trial of the suit. But, except in petty causes, for money or property not exceeding in amount or value the sum of ten Arcot rupees (in which the native commissioners are restricted by Section XVIII., Regulation VII., 1809, from requiring security, unless they shall receive certain information that the defendant is about to abscond), the civil Courts of Judicature are not empowered to dispense with the requisition of bail from defendants in any case not specially provided for by the regulations; although, in many instances, the small amount of the claim and the known property and responsibility of the defendant render the demand of security unnecessary and vexatious. On the other hand, with an exception to the power vested in the native commissioners, of attaching the personal property (instead of confining the person) of any defendant who may not give the security required for his appearance, the Civil Courts are not authorized to attach the property of any defendant, until a judgment be given against him; even when the defendant against whom a summons may issue, shall abscond, or shut himself up in any building, or retire to any place, so that the process cannot be served upon him, an ex parte trial and decision only being provided for such cases after proclamation in the court and at the defendant's place of residence: a dishonest debtor, therefore, by concealing himself and disposing of his property, is enabled

to defraud his creditor and to defeat the ends of justice; at the same time a strict application of the existing rule of final process in execution of decrees (whereby the Civil Courts are directed to levy the amount adjudged, by the public sale of a sufficient portion, or if requisite, of the whole of the lands, houses, and effects belonging to the party against whom the judgment is given, or if necessary, both by the sale of his property and attachment of his person, without any discretion to grant relief from personal attachment in cases of insolvency) enables rigorous creditors to exercise undue severity towards their debtors, by keeping them in confinement (at a small charge for their subsistence) when they have no means of discharging the amount demandable from them. And doubts have been entertained whether the terms of the existing rules admit of any indulgence of time being allowed by the courts for the satisfaction of a final judgment, without the express consent of the party in whose favour such judgment is passed. Also whether the amount paid for the subsistence of persons confined in execution of decrees of the Civil Courts is to be repaid by the party confined on his release. To explain and amend, therefore, the existing rules of process in the several instances above mentioned, in such manner as appears requisite, expedient, and conducive to justice, and farther to amend the rule contained in Clause Fourth, Section IV., Regulation V., A.D. 1808, concerning the payment of fees directed in the said section to be levied on exhibits, and on summonses or commissions for the attendance or examination of witnesses in suits and appeals, the Governor in Council has enacted the following rules to be in force from the time of their promulgation throughout all the provinces under the immediate government of the Presidency of Fort St. George.

The general first process to be issued by the Civil Courts, instead of the summons and requisition of security prescribed by Section V., Regulation III., 1802, shall be a notice only.

What the notice shall contain

How the notice is to be served if the defendant have an accredited agent residing at the place where the court is held, to receive such notices or other judicial processes.

Notice to be tendered to such agent, and his acknowledgment to be indorsed on it shall be accepted as a sufficient service of it

II. *First.* Upon the institution of a civil suit in the mode prescribed by the regulations in any *Zillah* Court, the general first process against the defendant, instead of the summons and requisition of security for appearance prescribed by Section V., Regulation III., 1802, shall be a notice only containing a short statement of the demand, with a requisition to attend in person or by vakeel, and to deliver an answer to the plaint on or before a certain day to be specified in the notice.

Second. If the defendant have an accredited agent at the place where the court is held, expressly empowered, either by a clause in his general mokhtarnamah, or by a separate mokhtarnamah granted for that purpose, to receive on behalf of his constituent, notices or other judicial processes which may not be especially ordered to be served personally by an officer of the court, the notice to be issued under the preceding clause shall be tendered to such agent, to be communicated by him to his principal, and the agent's acknowledgment, to be indorsed upon it, shall be accepted as a sufficient service of it, if he be desirous of giving such acknowledgment in preference to the notice being served on the person of his principal by an officer of the court.

How the notice is in other cases to be served

To be served by a single peon or chuprassy, who shall re-

Third. If the defendant shall not have an accredited agent at the place where the court is held, or if he shall not have expressly authorized his agent to receive notices of the above description; or if such agent shall decline receiving the notice for communication to his constituent, and the defendant be resident within the jurisdiction of the court, it shall be served on him through the nazir of the court, by a single chuprassy or

peon, who shall require only the acknowledgment of the defendant to be indorsed upon it, or if he be absent from his usual place of residence, the acknowledgment of his principal agent, or of any person acting for him during his absence. If the defendant be resident within the jurisdiction of any other *Zillah* Court than that in which the suit may have been instituted, the notice shall be transmitted to the judge of the *zillah* in which the defendant may reside, to be served in the manner above directed. If the defendant be neither resident within the jurisdiction of the *Zillah* Court in which the suit may be instituted, or of any other *Zillah* Court, and the suit shall notwithstanding be cognizable, either in claims to landed or other immovable property, from the property claimed being situated within the jurisdiction of the court, or in other cases from the cause of action having arisen within its jurisdiction, the notice, if the suit be for land or other immovable property, shall be served upon the defendant's agent or representative in charge of such property; and in other suits, the judge shall cause notice of the claim to be conveyed to the defendant in such manner as may appear most certain and convenient, according to the circumstances of the case.

quire only the indorsement of its receipt by the defendant, or, if he be absent, the acknowledgment of his principal agent or person acting for him.

How the notice is to be served if the defendant be resident in another jurisdiction; or, if the defendant be neither resident within such jurisdiction nor within that of any other *Zillah* Court, and the suit be cognizable notwithstanding, from the property, if immovable, being situated in such jurisdiction, or from the cause of action having arisen therein: in the former case, the notice to be served upon the agent in charge of such property; and in the latter, in such manner as the judge may deem most certain and convenient.

Fourth. [Notice how to be served on persons employed in the provision of the Company's investment.]—*Superseded. The provision of investments by the Company having ceased.*

III. If a defendant to whom a notice may have been issued, as directed in the preceding section, shall abscond or is not after diligent search to be found, or shall shut himself up in any house or building, or retire to any place, so that the notice cannot be served upon him, the judge (*or the register in cases referred to him*), on receiving the nazir's return to this effect, shall issue a proclamation, as directed in similar cases, when a summons cannot be served upon a defendant, by Section XIII., Regulation III., 1802. If the defendant shall not appear in person or by vakeel, by the time limited in such proclamation, or if a defendant who may have been served with a notice, as directed in the preceding section, shall not appear in person or by vakeel within the time specified, or if, having appeared, he shall refuse to answer the plaint, or make other default, the court, as provided in the section above mentioned, shall proceed to try the cause ex parte, and, after examining the plaintiff's evidence in support of his claim, shall give judgment in the same manner as if the defendant had appeared, answered, and entered into proof.

Court how to proceed against a defendant to whom a notice may have been issued who shall abscond, or cannot be found, or acts so that the notice cannot be served on him.

Proclamation to be issued, and what it shall contain.

Cases in which the court is to proceed ex parte on the allegations and evidence of the plaintiff only.

IV. *First.* If a defendant, after receiving the notice prescribed in Section II., shall attend in person or by vakeel and deliver his answer to the plaint, and no reason shall subsequently appear to the court for requiring security for his appearance during the trial of the suit, he shall be allowed to defend the cause to its termination without being called upon for such security; but if the judge (*or register*) shall be satisfied by sufficient proof that there is reason to believe the defendant intends to abscond and withdraw himself from the jurisdiction of the court, he may, either on the institution of the suit or at any time whilst the suit is depending in the *Zillah* Court, issue process against the defendant requiring him to give security for his appearance, as prescribed on the issue of summons by Section V., Regulation III., 1802, under penalty of being

Defendant, after receiving the notice and attending in person or by vakeel, to be allowed to defend the suit to its termination without being called upon for security, unless it appear to the court requisite.

How the court is to proceed if it appear, on sufficient evidence, that the defendant intends to abscond.

Process to be issued in such cases requiring security under specific penalties.

committed to close custody until such security be given or the decree of the court be complied with, as provided in the above-mentioned section, or until an attachment of property shall have taken place to secure the execution of the ultimate judgment in the cause, under the provision made by the following section of this regulation.

The security-bond to correspond with that prescribed in Section XXIX., Regulation III, 1802; and the judge *or register* is authorized to exercise his discretion with respect to security for the appearance of defendant in the first instance, and may require further security if, in the course of the trial, the security so taken shall appear insufficient.

Second. The security bond to be executed in such instances shall in substance correspond with that prescribed in Section XXIX., Regulation III., 1802, and in fixing the extent of the security to be required, the judge (*or register*) shall exercise his discretion with respect to the responsibility of the surety or sureties to be found by the defendant for his personal attendance when required, as specified in Section V. of Regulation III. aforementioned, and in the first instance, whatever may be the claim of the plaintiff, shall demand from the defendant such security only as may appear necessary to secure his appearance during the trial of the suit. Provided that, if at any time in the course of the trial the security so taken from the defendant shall appear to the judge (*or register*) insufficient, he is authorized and required to take such further security as he may think necessary to secure the appearance of the defendant; and if judgment be given against the defendant in the *Zillah* Court, the judge shall immediately proceed to execute such judgment in conformity to the regulations; or, if the case be appealable, and an appeal be lodged in the mode prescribed by the regulations, shall, as the case may be, stay such judgment on receiving good and sufficient security, or enforce it, according to the rules established in the existing regulations.

Modified by Sec xiv, Reg. XV., 1816

Sec xi, Reg XII., 1809

Malzaminy security to be required in cases wherein it may appear to the judge or *register* on sufficient proof that the defendant means to dispose of the property or land in dispute by private transfer or public sale, or in any of the modes herein specified.

V. *First.* In any case, if the judge (*or the register, in causes referred to him*) be satisfied by sufficient proof, that there is ground to apprehend the defendant means to dispose of the property in his possession by any private transfer, or to cause the public sale of any disputed land by withholding the assessment upon it, or to move any personal property from the jurisdiction of the court, whilst the suit against him is depending, for the purpose of avoiding the execution of an eventual judgment against him, the judge (*or register*) is authorized to call upon the defendant for malzaminy security, in such sum as may appear sufficient to make good the ultimate judgment of the court; and in the event of such security not being given (within a reasonable time to be allowed for that purpose), to cause the attachment of any land, effects, or other property belonging to or possessed by the defendant, to the amount or value of the cause of action in the suit depending, or the attachment of which may be deemed necessary to secure the execution of the judgment to be passed in the cause.

If the security be not furnished within a reasonable time, any land, property, or effects in the possession of the defendant, to the amount or value of the cause of action, to be attached

How the attachment in such cases is to be made; after which any private alienation of the property in dispute by sale, gift, or otherwise declared to be illegal and void.

Any unauthorized removal of the property attached to be furnished on proof as a resistance of the process of the court, in the manner directed by the existing regulations.

Second. The attachment in such cases shall be made by a written order of the court to be read and proclaimed upon the spot, and to be affixed in some conspicuous situation at the place where the property is situated; after which any private alienation of the property sequestered, whether by sale, gift, or otherwise, during the continuance of the attachment, shall be deemed illegal and void; and any unauthorized removal of the property so attached during such period, with a view to oppose or evade the sequestration, shall be punishable, on proof, as an act of resistance to the process of the court, according to the provisions in force concerning resistance to the process of the Civil Courts. In suits for landed property

Sec Sec xiii, Reg XV, 1816.

of considerable value, wherein it may appear necessary, for the purposes of justice, to divest the defendant from the management of the land until the suits be decided, or malzaminy security be given, the attachment shall be made through the collector of the district in which the land is situated, as prescribed by Clause Ninth of Section XII., Regulation IV., 1802, in appeal cases, wherein neither the appellant nor respondent may be able to give security for staying the execution of the decree. But in other cases the attachment which may be ordered under the present rule, shall not, without special cause, to be recorded on the proceedings of the court, remove the defendant or his representative from the possession and management of the land, or other property attached, until a decision be passed in the cause before the *Zillah* Court, nor be understood to preclude any act of the defendant or his representative relative to such property which may be consistent with the object of the attachment.

Attachment in the mode directed by the regulations herein quoted to be made through the collector in suits for landed property of considerable value, if necessary, until the suit be decided or malzaminy security be given.

In all other cases the attachment made under this rule shall not, without special cause, remove the defendant or his representative from the possession or management of the lands attached.

Nor preclude any act of the defendant or his representative consistent with the object of the attachment.

Third. Upon the decision of the suit, the judge (*or register*) shall pass such further order relative to the property attached as may be just and conformable with the judgment given in the cause. If the decree be against the defendant, all right and interest possessed by him in the property attached (saving arrears of rent or revenue due from land, and any other bonâ fide claims which may be entitled to satisfaction in preference to the decree) shall be held answerable for the execution of the judgment in the mode prescribed by the regulations. But if the plaintiff's claim be dismissed, or be not in any considerable proportion established against the defendant, all expense and loss to the defendant which may arise from the attachment of his property in consequence of such claim shall be reimbursed to him by the plaintiff as part of the costs of suit.

How the judge *or register* is to proceed with regard to the property attached, after the decision of the suit.

Provision if the plaintiff's claim be dismissed or not in any considerable portion established against the defendant.

VI. Whenever any property may be attached by order of a *Zillah* Court under the provisions contained in the foregoing section, the trial of the cause shall be proceeded on and brought to a conclusion as speedily as possible, without regard to the order of time, with respect to other depending causes, in which it may have been instituted. The attachment shall also be taken off on the delivery of sufficient malzaminy security, at any time previous to the decision of the cause in the *Zillah* Court.

Cases in which an attachment of property may have taken place to be tried and determined as speedily as possible, without regard to their number on the file of depending cases.

Attachment to be taken off at any time previous to the decision of the cause, if sufficient malzaminy security be tendered

VII. The provisions contained in the two preceding sections shall be held equally applicable to the *Provincial Courts of Appeal* and Sudder Adawlut, in all cases wherein an attachment of property made by a *Zillah* Court may be continued during the trial of an appeal before a *Provincial* Court, or the Court of Sudder Adawlut; or in which those courts may judge it proper to order an attachment of property, in default of security being given as required, either by the appellant or respondent, in any depending appeal.

Provisions of the two preceding sections to be held applicable to the *Provincial Courts of Appeal* and Sudder Adawlut in all cases of the continuation of attachments in appealed cases or in default of security

VIII. When personal bail or security for money or other property may be demandable from a party in any original civil suit or appeal, and he shall tender a deposit of money, or of promissory notes, or other obligations of Government, or any other sufficient money security to the amount required, such deposit shall be accepted instead of hazirzaminy or malzaminy securities, and shall be carefully kept by the treasurer of the court,

Promissory notes or other obligations of Government, or any other sufficient money security, to be accepted instead of hazirzaminy or malzaminy when either of those securities may be demandable

from a party in any civil suit or appeal.

Such securities to be kept by the treasurer of the court and disposed of according to the direction of the court after the determination of the suit, or whenever the purpose of the deposit shall have been attained.

to be restored or disposed of as the court may direct, on the termination of the cause, or whenever the purpose for which the deposit is made shall have been accomplished.

IX. [Issue of process and requisition of security by native commissioners.]—*Rescinded by Section II., Regulation VI.*, 1816.

Explanation of a doubt whether the civil courts are competent to provide for the payment of money adjudged by instalment.

Declaration that the Civil Courts are restricted from granting indulgence of time when there may be property sufficient and liable to satisfy the judgment, unless the party in whose favour the judgment is passed shall consent to waive his right of the immediate enforcement of the judgment, or unless a short postponement of the sale of the property shall appear equitable

Provisions when no property to satisfy the judgment may be pointed out, and the party against whom the decision is passed, or his surety, may be willing to engage for the liquidation of the amount due by instalments, under sufficient malzaminy, as the one or the other may be tendered or required.

Competency of the courts to receive such engagements declared.

In such cases, if the person delivering the engagement shall have been arrested he is to be immediately released and not again arrested in execution of the same judgment, except on failure to perform his engagement; nor shall any interest be chargeable in such instances beyond what the engagement provides for.

X. Doubts having been entertained whether any of the established Civil Courts are competent to provide, in their decrees, for the payment by instalments of money adjudged by them, or to make such provision, in cases of indigence, at any period after passing their decrees, it is hereby declared, that the Civil Courts in general are restricted from granting indulgence of time in the satisfaction of a final judgment, when property from which such judgment can be satisfied (whether belonging to the party against whom the judgment is given, or to his surety or sureties for the performance of such judgment) may be forthcoming, unless the party in whose favour the decree is passed shall consent to waive his right of immediate enforcement under an engagement for gradual payment or otherwise, or unless a short postponement of the sale of property shall, under any particular circumstances, appear just and equitable. But when no property may be pointed out from which the judgment can be enforced, and the party against whom it is passed, or his surety if he have given any, may be willing to engage (under sufficient malzaminy or hazirzaminy security, as one or the other may be tendered or required) for the liquidation of the amount due, by instalments, within such period as the court passing the final decree or entrusted with the execution of it, shall deem reasonable and proper, it shall be competent to the court by which the final judgment is given, or to a *Zillah* Court enforcing the decision of a native commissioner, and to any superior court revising the proceedings of an inferior court, to accept the engagement so offered, and to cause execution of the decree in conformity therewith, so long as the conditions of it shall be duly fulfilled. In such cases, if the person delivering the accepted engagement shall have been taken into custody, he shall be immediately discharged, and shall not be liable to further arrest in execution of the judgment to which such engagement may refer, except on failure to perform the terms of it; nor shall any interest be chargeable in such instances beyond what may be provided for in the engagement.

See Sec xlii, Reg VI, 1816

The *Zillah* Courts, the *Provincial* Courts, and the Sudder Adawlut are empowered to afford relief to insolvent debtors and their securities on receiving a statement on *oath* containing a fair disclosure of all property belonging to them.

Inquiry to be made to ascertain the truth of such statements, or the validity of any objections to them.

XI. For the relief of the insolvent debtors and their sureties who may be in confinement for the satisfaction of the decrees of the Civil Courts, and may have no means of discharging the amount demandable from them by instalments or otherwise, the judges of the *Zillah* Courts, the *Provincial Courts of Appeal*, and the Court of Sudder Adawlut, are empowered, on receiving from the person or persons confined in such cases, a statement upon *oath* containing a full and fair disclosure of all property belonging to them, whether in land, money, or effects, or of whatever description; and whether held in their own names, or in the names of any other persons, or jointly with others, to cause inquiry to be made for the purpose of ascertaining the truth of such statement, or the validity of any objections thereto, which may be offered by the party at whose instance the prisoner

or prisoners' may be in confinement; and if the result of such inquiry shall satisfy the court that the statement of property so delivered is true and faithful, and that the persons confined possess no other means of discharging the amount demandable from them, and the property included in the statement, or such part thereof as the court may deem it proper to sell in satisfaction of the judgment passed, shall be given up for sale, the court, on receiving such surrender of property, may cause it to be sold in the mode prescribed by the regulations, and may order the release of the person or persons in confinement, either with or without hazirzaminy security for his or their appearance when required. Provided, however, that nothing in this section, which is meant to grant relief in cases of real inability and fair dealing only, shall entitle any debtor or surety under the judgment of a Civil Court to be released without full satisfaction of such judgment, if he shall be guilty of any fraudulent concealment of property, or shall have committed any manifest fraud or misdemeanour which may appear to the court to render him an improper object of the relief intended for persons acting with good faith and willing to surrender all the property in their possession for the benefit of their creditors. Nor shall release from confinement, in any instance, under this section, prevent the creditor from bringing to sale (by application to the court), in full payment of the sum adjudged due to him, any property which may be subsequently possessed by the party released, or from causing such party to be again confined until the judgment be fully satisfied, when it may appear by sufficient proof that he had fraudulently concealed any property actually belonging to, and known to have been possessed by him, either in his own name, or that of others in his behalf, at the time of his discharge. Provided further, that all proceedings held, and orders passed, by the judges of the *Zillah* Courts under the discretion vested in them by this section, shall, on representation of the parties affected thereby to the *Provincial Courts of Appeal*, be open to the revision and determination of *those* courts; and in like manner, all orders passed by the *Provincial* Courts under this section shall be open to the final decision of the Sudder Adawlut.

If the statements appear true and faithful, and the person in confinement has no other means of paying the amount due, and shall make a surrender of his property, the court, after causing it to be sold, may release the debtor with or without security for appearance

Provided that no debtor or surety in confinement shall be entitled to release who may appear to have been guilty of a fraudulent concealment of property or any manifest fraud or misdemeanour.

Nor shall the release of the debtor, under this section, prevent the creditor from bringing to sale any property which may be subsequently possessed by the party released, in full payment of the sum adjudged against him, or from causing the party to be again confined on its being proved that he fraudulently concealed any property in his own name or in that of others at the time of his discharge.

Provided further, that all orders passed by the Civil Courts shall, on representation from the party affected, be open to the revision of the *Provincial* Courts; and, in like manner, any order passed by the latter courts under this section shall be open to the final decision of the Sudder Adawlut

XII. A question having arisen whether the amount paid for the subsistence of persons in confinement under judgments of the Civil Courts as prescribed by Section X., Regulation III., 1802, is to be repaid by the party confined, on his release, it is hereby explained, that such repayment is to be made, in common with the reimbursement of other costs of suit and process, when any property may be forthcoming from which the amount can be levied. But when no property can be pointed out for the reimbursement of the subsistence-money paid to prisoners, they shall not be detained in confinement for the repayment of such money only.

Explanation that the amount paid for the subsistence of persons in confinement in satisfaction of the judgments of the Civil Courts is to be reimbursed in common with other costs of suit, when there may be any property forthcoming

But persons are not to be detained for the reimbursement of the subsistence-money only when no property can be pointed out.

XIII. [Payment of fees on exhibits under Section IV., Regulation V., 1808, how to be made.]—*The Regulation referred to rescinded by Section II., Regulation XIII.*, 1816, *and Section II., Regulation II.*, 1817.

A.D. 1811. REGULATION III.

A REGULATION *for extending to the Commercial Residents, their Deputies and Assistants, the privilege of Trading on their own Account:* PASSED *by the Governor in Council of Fort St. George, on the 29th March,* 1811.

[This regulation became extinct on the termination of the East-India Company's commercial rights and concerns under the provisions of the Charter Act 3 and 4 William IV., cap. LXXXV.]

A.D. 1811. REGULATION IV.

A REGULATION *for explaining and amending the existing Rules of Criminal Process. And for defining, in certain Cases, the Powers and Duties of the Zillah Magistrates, and of their Assistants—of the Courts of Circuit—and of the Court of Foujdarry Adawlut:* PASSED *by the Governor in Council of Fort St. George, on the 9th July,* 1811.

[Rescinded by Section II., Regulation IX., 1816.]

A.D. 1811. REGULATION V.

A REGULATION *for Modifying Parts of the Rules in force respecting the Appointment and Removal of the Native Officers of Government, in the Judicial, Revenue, and Commercial Departments:* PASSED *by the Governor in Council of Fort St. George, on the 9th July,* 1811.

[Rescinded by Section II., Regulation VII., 1822.]

A.D. 1811. REGULATION VI.

A REGULATION *to provide more effectually for the Punishment of Perjury, Subornation of Perjury, and Forgery; and to alter the Provisions in force for the Payment of a fixed Reward on the Conviction of public Offenders:* PASSED *by the Governor in Council of Fort St. George, on the 9th July,* 1811, *corresponding with the 27th Ani of the year Prajotpati,* 1732*nd year of Saliwahana, and with the* 17*th Jamadi-us-sani,* 1226 *Hijra.*

Preamble.

NOTWITHSTANDING the provisions made by Section XL., Regulation VII., 1802, for punishing, to the full extent authorized by the Mahomedan law, persons convicted of giving false testimony on oath, or under a solemn declaration, in the Courts of Judicature, civil or criminal, this flagrant offence is found still to prevail, with subornation of perjury and forgery, equally injurious to the rights of individuals, and to the due administration of justice; and no specific penalties having been attached to these crimes by the Mussulman law, which has left them punishable at discretion, by flagellation, imprisonment, and public ignominy, persons convicted of them have been sentenced to various, and in some instances, inadequate punishment, according to the futwas of the Mahomedan law officers of the Courts of Circuit. It is therefore requisite, that farther provision be made to define, as far as the degrees of criminality in different cases may admit, the sentences which are to be passed by the Courts of Circuit, upon persons convicted before them of wilful perjury, subornation of perjury, or forgery. It is also expedient to declare such heinous and prevalent offences not bailable, except in special cases, and to expedite the exemplary punishment of persons who may be guilty of them before the Courts of Circuit, by providing for their immediate commitment and trial, when the whole of the requisite witnesses may be in attendance. For these purposes, and to obviate objections which have arisen to the present system of granting a fixed reward for the discovery and apprehension of public offenders, payable on conviction, as well as to provide more effectually for the remuneration of actual service rendered in the discovery or apprehension of offenders against the public peace, when no specific reward may have been offered for the performance of such service, the Governor in Council has enacted the following rules, to be in force as soon as promulgated, throughout all the provinces immediately subordinate to the presidency of Fort St. George.

Section XL., Regulation VII., 1802, rescinded.

II. Section XL., Regulation VII., 1802, is hereby rescinded.

Sentence to be passed on persons convicted before the *Courts of Circuit* of perjury, subornation of perjury, or forgery.

III. *First.* If any person amenable to the jurisdiction of a *Court of Circuit* shall be convicted before *that* court, whether by his free and voluntary confession, or by the testimony of credible witnesses, or by strong circumstantial evidence, of the crime of wilful perjury,* or of subornation of perjury, or of forgery,† as defined in the following section of this regulation, and shall, in consequence, by the futwa of the Mahomedan law officer of the *Court of Circuit,* be declared liable to discretionary punishment (tazeer, akoobut or seeasut), the judge of *circuit* before whom

* See Reg. III., 1826.

† See Sec v, Reg. II., 1822.

the trial may be held, provided he concur in the conviction of the prisoner (and shall consider him a proper object of corporal and ignominious punishment), shall sentence the offender to be publicly exposed in the mode commonly denominated tusheer, [*to have the words "durogh-go," "jal saz," or others of similar import, expressing the nature of the crime in the most current language, marked on the offender's forehead by the common process of "godna,"*] to receive *thirty stripes with a corah*, and to be imprisoned and kept to hard labour for a period not less than four, and not more than seven years. If it appear proper to banish the prisoner during the period of his confinement from the district in which he may have resided, he will be farther liable to such sentence, in pursuance of Clause Third of Section VIII., Regulation XV., 1803; provided, however, that if the judge of *circuit*, on consideration of the circumstances of the case and the prisoner's situation, shall deem the punishment above specified too severe, he shall submit the trial with his sentiments to the Foujdarry Adawlut for the final sentence of that court.

See Sec v., Reg I, 1825 Rescinded by Sec v., Reg I, 1818

See Reg II, 1830

In what case the punishment above specified may be mitigated.

Judge of *circuit* how to proceed if the stated punishment appear inadequate to the offence, or if he differ from the law officer on the prisoner's conviction.

Second. If the judge of *circuit* differ in opinion from the law officer of *that* court, with respect to the conviction of the prisoner, he shall not pass any sentence, but shall transmit his own and the magistrate's proceedings, with his sentiments, in a letter to accompany them, for the sentence of the Court of Foujdarry Adawlut.

See Reg VI, 1829.

Extent to which the Foujdarry Adawlut may pass sentence

Third. In cases of reference to the Foujdarry Adawlut, this court, after taking the futwa of its law officers, shall, if the prisoner be convicted, sentence him to any punishment deemed proper not exceeding that specified in Clause First of this section.

See Act I, 1840

Definition of the crime of wilful perjury punishable under the preceding section

IV. *First.* The crime of wilful perjury, subjecting the offender, on conviction, to the punishment stated in the foregoing section, is hereby declared to be, giving intentionally and deliberately, before a Court of Judicature, magistrate, or other authorized public officer, a false deposition *upon oath, or* under a solemn declaration taken instead of an oath, relative to some judicial proceeding, civil or criminal, and upon a point material to the issue thereof.

Extended by Sec II, Reg III., 1826.

Subornation of perjury defined,

Second. Subornation of perjury, punishable under the preceding section, is declared to be the crime of procuring, or causing another person to commit the offence of perjury as above described.

And forgery.

Third. The penalties for forgery stated in Section III. are meant to include all fraudulent and injurious fabrications, or alterations of written deeds, or of written or printed papers of whatever description, as well as all counterfeit seals or signatures thereto, and the illicit imitation of any public stamp or stamped paper established by government. It is farther hereby declared, that persons convicted of procuring or causing any such forgery will be liable to the same punishment as those convicted of having actually committed the forgery at the instigation of others.

Persons ordered to be tried for perjury, subornation of perjury, or forgery, not to be admitted to bail without special cause.

V. Persons charged with the crime of perjury, subornation of perjury, or forgery, as defined in the preceding section, and appearing to the Civil or Criminal Courts by whom they may be ordered to be brought to trial before the *Courts of Circuit*, to have been guilty of the charge, shall not be admitted to bail (notwithstanding any thing declared to the contrary in any existing regulation) unless specially authorized by the court under

See Sec VIII., Reg X, 1816, and Sec. VII., Reg VIII., 1829.

whose directions they are committed for trial. But nothing herein contained shall be construed to preclude the magistrate from admitting to bail persons committed by him for trial on charges preferred originally before him, in cases cognizable by him under the regulations, without any order from a Civil or Criminal Court for the commitment of such persons for trial before the *Court of Circuit.*

See Sec viii., Reg II., 1822.

In what cases persons considered guilty of perjury, subornation of perjury, or forgery, before a *Court of Circuit* may be brought to immediate trial before that court, without postponement to a future session.

VI. Whenever a witness giving evidence before a *Court of Circuit* may be considered by the judge of that court to be guilty of wilful perjury, or whenever a person attending a *Court of Circuit* may be considered by the judge of that court to be guilty of subornation of perjury, or of forgery, in any trial or matter depending before the court, and the whole of the witnesses required for the proof of the charge, and for the defence of the accused, may be also in attendance, it shall be competent to the judge of *circuit* to direct the zillah magistrate to commit the person so charged for immediate trial before the *Court of Circuit,* [*instead of postponing the commitment for trial at the ensuing session of the Court of Circuit.*] Provided that nothing in this section shall be considered to authorize the conviction or punishment of any person charged with the crimes specified, until he shall have been regularly put upon his trial, or until any material evidence which he may have to offer in his defence shall have been received and duly considered.

Proviso for a regular trial and full examination of evidence.

VII. VIII. [Rescind Section XXIII., Regulation VI., 1802, and Section XVI., Regulation XXXV., 1802.]—*Both these Regulations have been since rescinded in toto by Regulations IX. and XI.*, 1816.

IX. to XII. [Rewards for apprehension of dacoits and other public offenders.]—*Rescinded by Section II., Regulation IX.*, 1816.

A.D. 1811. REGULATION VII.

A REGULATION* *for regulating the Revenue derivable from the Monopoly or exclusive Sale of Tobacco in the Provinces of Malabar and Canara:* PASSED *by the Governor in Council of Fort St. George, on the* 10*th September*, 1811, *corresponding with the* 27*th Avani of the year Prajotpati*, 1732*nd year of Saliwahana, and with the* 21*st Shaban*, 1226 *Hijra.*

Preamble.

WHEREAS it is expedient that the revenue derived by Government from the monopoly or exclusive sale of tobacco in the provinces of Malabar

* This regulation, with the exception of Clause Third, Sec. ii., was extended to Coimbatore by Sec ii, Reg. VIII., 1811.

Such parts of this regulation as require the penalties to be sued for in the Courts of Adawlut are repealed by Sec. ii., Reg. V., 1831.

and Canara should be collected under certain fixed rules, and that rules should be prescribed for punishing persons concerned in the illicit cultivation of tobacco, or in any illicit traffic, dealings, or concern in tobacco within the said provinces, wherefore the Governor in Council has been pleased to enact the following regulation, to have effect from the date of its promulgation.

Cultivation of tobacco in Malabar and Canara prohibited, excepting under license.

No license to be granted for the cultivation of tobacco in small quantities

Tobacco cultivated under licenses to be delivered on account of Government at a regulated rate.

Penalty for cultivating without a license, or for cultivating a greater quantity than that specified in the license.

II. *First.* The cultivation of tobacco in the provinces of Malabar and Canara is hereby expressly prohibited, excepting under licenses issued by authority of the collectors.

Second. No license shall be granted for the cultivation of tobacco to a less extent than ten maunds average produce.

Third. The tobacco which may be cultivated under Clause First of this section shall be delivered on account of Government at a fair rate, to be regulated by the collector, with reference to the average prime cost of imported tobacco, subject to the decision of the Board of Revenue.

Fourth. Persons who shall cultivate without a license, or persons holding a license, who shall cultivate a greater quantity than that specified in their license, shall, on conviction, be adjudged to be fined at the discretion of the judge in a sum not exceeding three times the amount value of the tobacco so cultivated, the value to be calculated at the Government monopoly price. The tobacco so cultivated shall, moreover, be confiscated, and in the case of a person holding a license, such license shall be forfeited.

Fifth. The quantity specified in the license shall be calculated on the average crop; any quantity above or below the average crop arising from peculiarity of season, shall form no ground of action against the cultivator, provided the surplus or deficiency be reported to the local officer for the information of the collector.

Sale, transit, export, and import of tobacco prohibited, excepting on account of Government.

Under pain of confiscation and the farther penalties hereinafter provided.

III. The sale of tobacco in the provinces of Malabar and Canara, and the transit, export, and import of it, whether by sea or land, excepting on account of Government, or with their express sanction, is hereby expressly prohibited; and all tobacco sold, conveyed, exported, or imported, directly or indirectly, otherwise than as provided for in this regulation, shall be liable to seizure and confiscation, and the parties so offending shall be further liable to such fine and punishment as are hereinafter provided.

Sale of tobacco, how to be conducted.

IV. *First.* The sale of tobacco shall be subject to the immediate direction and control of the collector, and shall be conducted by that officer, in communication with and under the orders of the Board of Revenue.

Registers of purchases and sales to be kept and transmitted every three months to the Board of Revenue.

Second. Registers shall be kept by the collectors of the quantity of tobacco purchased and sold in the districts under their charge, whether for home consumption, or for export by sea or land, specifying the price of the tobacco so purchased and sold in separate columns; such registers, with an abstract thereof, shall be transmitted every three months to the Board of Revenue.

Advances for the purchase of tobacco to be made by the collectors as occasion requires.

Third. The collectors shall have authority to make advances for the purchase of tobacco when required, but they shall report to the Board of Revenue the amount of each advance at the period of making it.

V. The collectors shall have authority to determine the places where tobacco shall be sold, and the quantity of tobacco to be purchased annually for the consumption of their districts.

Collectors to determine the quantity of tobacco to be purchased and the places of sale.

VI. *First.* After the date of this regulation, all persons detected, directly or indirectly, in the illicit traffic, sale, import, or transit of tobacco, shall, besides incurring the penalty of the seizure and confiscation of the tobacco, be adjudged, on conviction, to be fined, at the discretion of the *judge*, in a sum not exceeding three times the amount value of the tobacco seized, the value to be calculated at the Government monopoly price.

See Reg V., 1831

Penalty incurred by persons engaged in the illicit traffic, sale, import, or export of tobacco.

Second. In like manner, all persons convicted before a *judge* of affording aid and encouragement to such illicit traffic, by giving lodgment to the tobacco within their houses, or otherwise assisting its clandestine importation, sale, or transit, shall be adjudged to pay the same fine as is prescribed in Clause First of this section; that is to say, a sum not exceeding three times the amount value, at the monopoly price, of the tobacco which may be either found in their possession, or which, to the satisfaction of the judge, may be proved to have been smuggled through their connivance and assistance.

Penalty incurred by persons affording aid or encouragement to the illicit traffic, sale, import, or export of tobacco.

VII. Any persons to the number of three or more who shall go forth with any offensive weapon for the purpose of smuggling tobacco, or in order to be aiding and assisting in the illicit transit, export, or import of that article, or who shall obstruct, oppose, or resist the seizure of tobacco so smuggled, or attempted to be smuggled, or shall be aiding or assisting in rescuing or taking away the same, after seizure, or in preventing the apprehending any person so offending, or in rescuing any person who shall have been apprehended for such offences, shall be committed for trial before the *Court of Circuit*, and on due conviction thereof, shall be adjudged to be imprisoned and kept to hard labour for a space not exceeding three years. Provided always, that if on consideration of any circumstance of violence, or other criminal act appearing on the trial to aggravate the guilt of the parties, it shall in the judgment of the court be just and necessary to inflict a more severe punishment than imprisonment and labour for the term of three years, the offenders shall in all such cases be liable to the penalties declared in the several clauses of Section IV., Regulation XV., of 1803, for similar acts of criminality committed in prosecution of robbery by open violence.

Gang smugglers, how punishable on conviction for such crime.

But criminal acts of violence done in prosecution of the original intention are declared liable to the same punishment as specified in Section IV, Regulation XV., 1803, for similar acts of criminality committed in prosecution of robbery by open violence.

VIII. *First.* The Governor in Council reserves to himself the power of fixing the price at which tobacco shall be retailed, and of increasing or modifying that price as he may deem expedient. Whenever such increase or modification in the price may appear advisable, the collector shall transmit his propositions for that purpose to the Board of Revenue; the Board of Revenue shall submit the same with their opinion to the Governor in Council, who will determine thereon; but in all such cases, the collector shall transmit an attested statement of the new rules to the *judge of the zillah*, who shall fix a copy of it in his court-house for general information.

Governor in Council may increase or modify the retail price of tobacco.

Rules to be observed on an increase or modification of the prices taking place.

Second. Persons buying tobacco at the Government depôts or author-

Payment of the price of tobacco, as estab-

lished, to exempt persons from the payment of further demand on account of duty.

A rowannah to be given them.

Purport of rowannah.

ized places of sale, and paying the established price for it, shall be exempted from the payment of any farther demand on account of duty, customs, or otherwise, and shall receive a rowannah certifying the purchase, authorizing the exemption, and specifying the quantity of tobacco intended to be transported under it, the place where it was procured, whither intended to be transported, and the manner in which it is carried.

Persons employed in the sale of tobacco to be furnished with a written authority for the purpose.

And to pass written engagements to conduct the sales at the established rates and according to the instructions of the collector, under such penalty as may be agreed upon.

Third. Persons employed in retailing tobacco shall be furnished with a written authority from the collector for that purpose, specifying the places where they are authorized to conduct the sales and the rate of price.

Fourth. Persons employed in retailing tobacco shall pass written engagements to the collector to conduct the sales at the established rates of price and agreeably to his instructions, under such penalty as the collectors may deem sufficient and the parties may agree to; and the amount of such penalty, when incurred, shall be recoverable by the general process in the courts.

Transit of tobacco not to be permitted without a rowannah.

Persons entrusted with the sale of tobacco to be furnished with blank rowannahs.

IX. *First.* Tobacco shall not be conveyed or transported by land or water within the provinces without a rowannah from the proper officer.

Second. The collectors shall furnish their subordinate officers entrusted with the sale of tobacco at the depôts with blank rowannahs, bearing their signature, to be written in such form as the collectors may from time to time find it necessary to establish.

Rules for the conduct of the chouky officers on passing tobacco.

Third. On the arrival of tobacco at a chouky, the officer in charge shall ascertain whether the quantity corresponds with that stated in the rowannah; if so, he shall certify the same on the back of the rowannah and pass it without delay.

Tobacco exceeding the quantity specified in the rowannah to be confiscated, and the party to be fined.

Fourth. If any person shall attempt to transport a greater quantity than that specified in the rowannah, the whole shall be liable to seizure and confiscation, and for the excess above the quantity specified in the rowannah he shall be liable to the fine provided for by Clause First of Section VI.

Registers to be kept of blank rowannahs, and checks to be adopted for preventing their improper use.

Fifth. The collectors shall keep correct registers of the blank rowannahs delivered to their subordinate servants selling tobacco to be filled up, and shall adopt such checks as they may think necessary to prevent the improper use or application of the rowannahs so delivered.

Magistrates, officers of police, &c., to assist in preventing illicit trade in tobacco.

X. *First.* With a view the more effectually to restrain the illicit sale, transit, export, or import of tobacco, it is required of the magistrates, officers of police, collectors of revenue and of customs, commercial residents, master attendants, and beach-masters, to assist in the suppression of illicit dealings in tobacco, as far as they shall be found to prevail within the limits of their respective jurisdictions.

Police officers to comply with requisitions duly made for their assistance.

Second. All officers of police shall comply with such applications as may be made to them by the collectors, *commercial residents*, or other officers of Government, for assistance in the seizure of tobacco illegally sold, conveyed, imported, or transported; or in the event of a public officer detecting such illicit practices, he shall report the case for the information of his immediate superior, detaining the tobacco until he receive orders.

Tobacco seized, how to be disposed of.

Third. All tobacco seized under this regulation shall be delivered over, as soon as may be practicable, to the collectors, or to such other person as

they may direct; and the earliest practicable notice of all seizures shall be communicated to the Board of Revenue, who shall immediately proceed to take the case into consideration, and are empowered to declare the confiscation of all tobacco which they shall determine to be liable to be confiscated.

Fourth. One-third of the value of the tobacco so seized, to be estimated on the average prime cost of it as purchased by Government to supply the monopoly, shall be paid to the person or persons who shall have furnished the information; another third to the collectors, *commercial residents*, their assistants or officers by whom the seizure shall be effected; and the remainder to Government.

Appropriation of the value of the tobacco seized.

XI. *First.* Any person engaged in any clandestine or fraudulent transaction with respect to rowannahs or passes, smuggling or conniving at smuggling of tobacco, purchasing, obtaining, selling, or weighing tobacco in an illicit manner, shall, on conviction, besides being fined at the discretion of the *judge*, according to the circumstances of the case, be liable, if in the service of the Company, to be declared incapable of serving Government in any capacity.

Punishment denounced against fraudulent transactions respecting tobacco.

Second. But in cases where any of the officers of Government shall be guilty of a criminal abuse of their trust, such as appropriating seizures of smuggled tobacco to their own use and emolument, employing persons to carry on this traffic, or extorting contributions from smugglers to allow of their booty to pass unmolested, the offence shall be considered of sufficient criminality to be brought forward before the *Court of Circuit*, and, on conviction, the offenders shall be sentenced to imprisonment and hard labour for a space not exceeding three years, and shall farther be liable to prosecution in the Civil Court for the recovery, on account of Government, of the fruits of their peculations and misdemeanors.

Farther punishment applicable to the case of officers of Government who may be guilty of abuse of trust.

XII. If a person convicted of any of the offences specified in this regulation shall refuse or omit to discharge the penalty which shall be imposed on him, the judge shall proceed to levy the amount of the penalty by issuing the same process against the property of the offender as is prescribed for enforcing other decrees of court. If property belonging to the offender, sufficient to make good the penalty, shall not be found, the *judge* shall commit him, for such period as he shall think proper not exceeding six months, to confinement in the jail for debtors, or in the criminal jail.

Penalties prescribed by this regulation to be enforced by the same process as is observed in enforcing other decrees of the court.

In certain cases, the judge to commit the offender to jail for a period not exceeding six months.

XIII. One-third of the amount of all fines which may be levied under this regulation shall be paid to the person or persons who shall have furnished the information; another third to the collectors, *commercial residents*, or their assistants by whom the offence shall have been detected and reported; and the remainder to Government.

Appropriation of the fines levied under this regulation.

XIV. All persons who shall become entitled to any of the rewards granted by this regulation shall be paid the same, either by the Board of Revenue or by their order, in such manner as shall be convenient to the party entitled to receive the same, as soon as possible after the confiscation of the tobacco shall have been duly decided upon, or the fines shall have been levied.

Rewards will be paid either by the Board of Revenue or collectors.

How a judge is to proceed against persons giving false information against others for being concerned in dealings in contraband tobacco, or in the illicit cultivation of tobacco.

XV. Whenever the *judge* shall deem any information lodged against persons for being concerned in dealings in contraband tobacco, or in the illicit cultivation of that article, to be groundless and false, he shall cause the informer to make good to the person accused all charges which may have been incurred by him in consequence of the false information so lodged against him, together with such damages as the court shall deem it just to award upon consideration of the circumstances of the case.

All inquiries under this regulation shall be summary.

XVI. All inquiries made under this regulation shall be conducted in a summary manner by the *judge* before whom the information shall be given, subject to the general rules for appeal from his decisions to the *Provincial Court of Appeal.*

Persons deeming themselves aggrieved under this regulation, how to proceed.

XVII. Any person who shall deem himself aggrieved, under this regulation, by any act or orders done or issued by the Governor in Council, or by the Board of Revenue, or by any of the officers of Government, shall be at liberty to apply for redress in the manner prescribed in Section XV., Regulation II., of 1802.

See Reg. I., 1823.

Regulation to be promulgated throughout Malabar and Canara.

XVIII. This regulation shall be carefully published and promulgated in the districts of Malabar and Canara, in order that no plea of ignorance may be advanced in excuse for its infringement, and the collectors and officers entrusted with the management of the monopoly and sale of tobacco shall cause translates of it in the local language to be suspended for general observation in their respective cutcherries.

A.D. 1811. REGULATION VIII.

A REGULATION *for extending to the Province of Coimbatore the Monopoly or exclusive sale of Tobacco, established in the Provinces of Malabar and Canara:* PASSED *by the Governor in Council of Fort St. George, on the* 10*th September*, 1811, *corresponding with the* 27*th Avani of the year Prajotpati,* 1732*nd year of Saliwahana, and with the* 21*st Shaban,* 1226 *Hijra.*

WHEREAS it has been deemed expedient to extend to the province of Coimbatore the monopoly or exclusive sale of tobacco established in the provinces of Malabar and Canara, the Governor in Council has been pleased to enact the following rules:—

Regulation VII., 1811, extended to Coimbatore, with the exception of Clause Third, Section II.

II. *First.* The provisions of Regulation VII., A.D. 1811, are hereby extended to the province of Coimbatore, with the exception of Clause Third, Section II., of that regulation.

Second. The tobacco cultivated in Coimbatore shall be delivered on account of Government at such fair rates as may be agreed upon between the collector and the cultivators, with reference to the prices of former years, and other circumstances tending to affect the value of the article; the rates so determined to be subject to the decision of the Board of Revenue.

Rates at which Coimbatore tobacco is to be delivered to Government, how to be regulated.

A.D. 1812. REGULATION I.

A REGULATION *for rescinding Regulation XII., A.D.* 1803, *also Sections IX., X., XI., XII., XIII., and XIV. of Regulation XV., A.D.* 1808, *and, in lieu of the Duty therein prescribed, providing for the collection of a General Inland Duty on certain Articles of Merchandise imported by Land from Foreign States, or passing through or sold within the Territories subject to this Presidency; for determining the Amount of the Duty and defining the Rules under which it shall be collected:* PASSED *by the Governor in Council of Fort St. George, on the* 14*th April,* 1812, *corresponding with the* 4*th Chitteri of the year Angirasah,* 1733*rd year of Saliwahana, and with the* 2*nd Rabi-us-sani,* 1227 *Hijra.*

THE provisions of Regulation XII. of 1803 having been found insufficient for the purposes for which they were enacted, it has been deemed expedient to rescind the same, and in lieu of the town and frontier duty therein prescribed, to re-establish a general inland duty on the import by land, transit, or sale of certain articles within the territories subject to this Presidency. Wherefore the Governor in Council has been pleased to enact this regulation, to take effect from and after the date of its promulgation.

II. Regulation XII. of 1803, denominated "A Regulation for levying a Duty on Goods imported by Land from, and exported to the Territories of Foreign States in India, and on Articles of Merchandise produced or manufactured or consumed in certain Towns and Places; for determining the Amount of Duty, and for defining the Rules under which that Duty shall be collected;" and also Sections IX., X., XI., XII., XIII., and XIV. of Regulation XV., A.D. 1808, framed in modification of Regulation XII., A.D. 1803, are hereby rescinded.

Regulation XII., A.D. 1803, and Sections IX., X., XI., XII., XIII., and XIV. of Regulation XV., A.D. 1808, rescinded.

III. to XIV. [Rules for collection of inland duties.]—*Repealed by Section I., Act VI.,* 1844, *which abolishes transit duties.*

XV. *First.* Military stores shall not be suffered to pass the chokies, unless accompanied by regular certificates, conformably to the general orders which have been or may be published by the authority of the Governor in Council respecting the transit of stores of that description.

Military stores not to be allowed to pass without regular certificates.

What shall be considered as military stores.

Second. Military stores shall be construed to comprehend:—

1. Saltpetre } To be passed on production of the rowannahs prescribed in [*Regulation XIV., A.D.* 1809.]
2. Gunpowder }
3. Cannon.
4. Muskets.
5. Carbines.
6. Bayonets.
7. Bullets.
8. Matchlocks.
9. Pistols.
10. Swords.
11. Pikes.
12. Spears.
13. Nyrs' knives.

Rescinded by Sec. v., Reg. V., 1821, q. v.

Military stores attempted to be imported from foreign territories to be seized and report to be made to the Board of Revenue.

Third. Articles of the above description attempted to be imported from foreign settlements, or from the territories of native powers, shall be seized, and the circumstances reported, without delay, to the Board of Revenue.

Exception in favour of firearms for private use.

Fourth. The provisions of this section shall not, however, be considered to apply to fowling-pieces, pistols, or other firearms in possession of individuals for private use.

XVI. to XIX. [Forms to be observed in passing the custom chokies.]

XX. [Division of the proceeds of confiscated goods.]

Superseded by Act VI., 1844.

XXI. to XXV. [Punishment of public servants and others for making unauthorized collections or detaining public documents.]—*Superseded by Regulation IX.*, 1822, *and by the abolition of transit duties by Act VI.*, 1844.

XXVI. [Judicial proceedings against European officers of Customs.]—*Superseded by Regulation I.*, 1823, *and Act XIII.*, 1843.

A.D. 1812. REGULATION II.

A Regulation *for modifying certain Parts of the existing Regulations respecting the Duties leviable on Imports and Exports by Sea at the Port of Madras, and at the several Ports in the Provinces subject to the authority of the Government of Fort St. George:* Passed *by the Governor in Council of Fort St. George on the* 14*th April,* 1812, *corresponding with the* 4*th Chitteri of the year Angirasa,* 1733*rd year of Saliwahana, and with the* 2*nd Rabi-us-sani,* 1227 *Hijra.*

Preamble.

Whereas it has been deemed expedient to amend the rules and alter the rates established for the collection of sea-customs at the port of

Madras and subordinate ports under this Presidency, and to modify certain sections and clauses of Regulations IX. and XI., A.D. 1803, and of Regulations XIV. and XV., A.D. 1808, wherefore the Governor in Council has been pleased to enact this regulation to take effect from and after the date of its promulgation.

[*The whole of this regulation was rescinded by Section II., Act VI.*, 1844, *except Sections XV. and XVII. and the rescinding Sections. Most of the rescinded sections are again included in the rescissions effected by Act VI.*, 1844.]

II. *First.* Section VI., Regulation IX., 1803, is hereby rescinded.

Section VI., Regulation IX., 1803, rescinded.

V. *First.* Section X., Regulation IX., 1803, and Regulation V., 1809, are hereby rescinded.

Section X., Regulation IX., 1803, and Regulation V., 1809, rescinded.

X. *First.* Section VIII., Regulation XV., 1808, is hereby rescinded.

Section VIII., Regulation XV., 1808, rescinded.

XI. *First.* Section XVI., Regulation XI., 1803, is hereby rescinded.

Section XVI., Regulation XI., 1803, rescinded.

XIII. *First.* Section XXXV., Regulation IX., 1803, Section XVIII., Regulation XI., 1803, and Section XVIII., Regulation XV., 1808, are hereby rescinded.

Section XXXV., Regulation IX., and XVII., Regulation XI., 1803, and Section XVIII., Regulation XV., 1808, rescinded.

XV. Provisions and stores for the use of his Majesty's navy, which are the immediate property of the Crown, certified as such by the public officer, shall be passed free of duty; but articles of provision furnished to his Majesty's squadron by contractors or their agents are not to be exempted from the payment of the prescribed duties.

Goods the property of the Crown exempted from duty, but not those furnished by contractors.

XVII. Arms, ammunition, and military stores, with the exception of fowling-pieces, pistols, or other arms in the possession of individuals for private use, shall not be imported into, or exported from, any port under this Presidency without express permission from the Governor in Council, and a full compliance with all such rules and conditions as may be prescribed by the orders of Government for the guidance of the officers in charge of the collection of customs, in respect to such imports or exports.

Arms, ammunition, and military stores not to be exported or imported without license.

XVIII. *First.* Regulation XVI., 1803, is hereby rescinded.

Seventh. Section XXIV., Regulation XI., 1803, and Sections XV. and XVI., Regulation XV., 1808, are hereby rescinded.

Regulation XVI., 1803, rescinded.

Section XXIV., Regulation XI., 1803, and Sections XV. and XVI., Regulation XV., 1808, rescinded.

A.D. 1812. REGULATION III.

A REGULATION *for modifying and amending certain of the Rules at present in force for the Collection of Duties on Imports by land into the Town of Madras and circumjacent Villages, and on Articles manufactured or produced within the said Town and Villages:* PASSED *by the Governor in Council of Fort St. George, on the* 14*th April,* 1812.

[All the provisions of this regulation are repealed or superseded by Act VI., 1844, which abolished inland and transit duties.]

A.D. 1812. REGULATION IV.

A REGULATION *for the Conduct of the Trade of Foreign Nations with the Ports and Settlements of the British Nation under the Presidency of Fort St. George, and for defining the Duties to which such Trade shall be subject at Ports and Settlements dependent on the said Presidency:* PASSED *by the Governor in Council of Fort St. George, on the* 14*th April,* 1812.

[Rescinded by Section II., Act VI., 1844, except the following sections.]

V. Sections VII., VIII., and XXXIX., Regulation IX., 1803, and Sections VI. and XVII., Regulation XI., 1803, are hereby rescinded.

VI. *First.* Section XIX., Regulation XI., 1803, is hereby rescinded.

A.D. 1812. REGULATION V.

A REGULATION *for establishing a Court of Civil Judicature, and for the Appointment of a Magistrate of the Town of Cochin and its Dependencies:* PASSED *by the Governor in Council of Fort St. George, on the* 9*th June,* 1812.

[Rescinded by Section II., Regulation IV. 1817.]

A.D. 1812. REGULATION VI.

A REGULATION *for the levy of a particular Duty on Betel, Tobacco, Ganjah, Bang, and Goodak, when imported into or sold in certain Towns and Places within the Territories subject to the Presidency of Fort St. George:* PASSED *by the Governor in Council of Fort St. George, on the* 8*th September,* 1812.

[Rescinded by Act VI., 1844, which abolished inland and transit duties.]

A.D. 1813. REGULATION I.

A REGULATION *for determining the Import and Excise Duties on all Spirituous Liquors manufactured to the eastward of the Cape of Good Hope, which may be imported by Sea or Land into Madras, and for more effectually preventing the clandestine Sale of such Liquors:* PASSED *by the Governor in Council of Fort St. George, on the* 27*th July*, 1813, *corresponding with the* 14*th Adi of the year Srimukha,* 1734*th year of Saliwahana, and with the* 28*th Rajab*, 1228 *Hijra.*

Preamble.

WHEREAS it having become necessary to provide for the better security of the revenue arising from the sale of spirituous liquors within the town of Madras, and to assist the operations of police, by preventing more effectually the clandestine sale of spirituous liquors manufactured to the eastward of the Cape of Good Hope which may be imported into Madras, the Governor in Council has enacted the following rules for determining the import and excise duties to be levied on such liquors, and for regulating the mode under which they shall be supplied to the retail dealers.

[*Such parts of this regulation as relate to the rates of duty and drawback on spirituous liquors imported or exported by sea were repealed by Section II., Act VI.*, 1844. *The sections affected are II. to V. inclusive.*]

The permit of the collector of Madras must accompany all liquors removed from the sea custom-house, or from one warehouse, shop, or private dwelling-house to another

But persons having paid the general and particular import duty may dispose of their liquor by wholesale, in quantities not less than five leaguers.

See Schedule A, in Act IX, 1845

VI. No spirituous liquors shall be removed from the sea custom-house to any warehouse, shop, or private dwelling, or from one warehouse, shop, or private dwelling to another, without the permit of the collector of Madras, which permit must accompany all liquors removed; but persons having paid the general import duty *of* 8 *per cent., and the further duty provided for in this regulation*, shall be entitled to dispose of it, by wholesale, provided the quantity so sold shall in no case be less than five leaguers.

The licensed retail dealers shall be supplied with liquor exclusively by the collector of Madras.

VII. *First.* The licensed retail dealers shall be supplied exclusively by the collector of Madras with the quantity of liquor which they may require, at such price as may be from time to time determined.

The price of the liquor so supplied to be from time to time determined.

In addition to the price of the liquor, an excise duty, not exceeding one pagoda per gallon, shall be paid by the licensed retail dealers and collected by the collector of Madras.

The rate of such duty to be determined by the Governor in Council.

Second. In addition to the price or cost of the liquor, an excise duty not exceeding 1 pagoda per gallon shall be paid by the licensed retail dealers and collected by the collector of Madras (in the manner now in practice) on all spirituous liquors imported from the eastward of the Cape of Good Hope, and sold for consumption in Madras; the actual rate at which this tax shall be collected (provided always that it in no case exceed the rate above mentioned) shall be determined from time to time by the Governor in Council.

Penalty of importing, selling, purchasing, removing, or re-exporting, or attempting to import, sell, purchase, remove, or re-export

VIII. *First.* All persons importing or selling, or purchasing or removing, or attempting to import or sell, or purchase or remove liquor contrary to the provisions of this regulation, as well as all persons who shall attempt to re-export any liquor which, on comparison with the register to

liquor, contrary to the provisions of this regulation.

be kept as prescribed by Section III. of this regulation, shall be found to be inferior in proof and quality to what it was at the time of importation, shall be liable to the payment of twice the amount of the highest rate of excise duty imposed by Clause Second of the preceding section; and all liquor so imported, sold, purchased, or removed, or re-exported, or attempted to be so imported, sold, purchased, removed, or re-exported, together with the cattle and carriages employed in removing it, shall be liable to seizure and confiscation.

Manner in which the amount to be paid and the proceeds of liquor confiscated under the foregoing clause shall be appropriated.

Second. The amount to be paid under the preceding clause by persons detected in the illicit importation, sale, purchase, removal, or re-exportation of spirituous liquors, together with the proceeds of the property confiscated, shall, after deducting an amount equal to the excise duty payable on the liquor, be divided among the officers of revenue, the informers, and persons making the seizure, in such proportions as may be determined by the Board of Revenue.

IX. [Duty on spirituous liquors imported into Madras by land.]—*Repealed by Section I., Act VI.*, 1844.

Country or puttah arrack manufactured at Madras shall be liable to the same excise duty as that which may be made payable on spirituous liquors manufactured to the eastward of the Cape of Good Hope.

The power of prohibiting or suspending the distillation of country arrack at Madras and its dependencies vested in the Governor in Council.

X. At whatever rate the Governor in Council shall, under Clause Second, Section VII. of this regulation, direct the excise duty to be collected on spirituous liquors manufactured to the eastward of the Cape of Good Hope, a duty of the same rate shall be collected on arrack manufactured at Madras, usually known by the name of country or puttah arrack. The Governor in Council, however, reserves to himself the power of prohibiting altogether the distillation of country or puttah arrack at such time and within such distance of the town and dependencies of Madras as to him may appear expedient.

XI. This regulation shall take effect from the 1st of January, 1814.

A.D. 1813. REGULATION II.*

A REGULATION *providing for the use of Stamped Cadjans, in common with Stamped Paper, for the Legal Instruments described in Sections IX., X., and XI., Regulation VIII.*, 1808; *establishing Stamp Duties on all Petitions addressed to the Governor in Council and to the Boards of Revenue and Trade; requiring Licenses for the Retail Sale of Tobacco in the Provinces of Malabar, Canara, and Coimbatore to be written on Stamped Paper; and modifying certain parts of the existing Regulations respecting the Duties leviable by means of Stamped Paper:* PASSED *by the Governor in Council, on the 9th of November,* 1813, *corresponding with the 26th Arpesi of the year Srimukha,* 1734*th of Saliwahana, and with the* 15*th Zilkada,* 1228 *Hijra.*

Preamble.

WHEREAS *it has been considered that the optional use of stamped cadjans, in common with stamped paper, for the legal instruments described in Sections*

* This regulation was rescinded prospectively, from 1st February, 1817, by Reg. XIII.,

IX., X., and XI., Regulation VIII., of 1808, *would contribute as well to the convenience of individuals as to the increase of the public revenue; and whereas it has been deemed expedient to establish stamp-duties on all petitions addressed to the Governor in Council and to the Boards of Revenue and Trade; to alter the present rates of duty on abkarry licenses; to require licenses for the retail sale of tobacco in the provinces of Malabar, Canara, and Coimbatore to be written on stamped paper; to subject rowannahs for goods not exceeding ten rupees in value to the payment of a duty; to obviate the delay and inconvenience arising from the operation of the rule contained in Section XIV., Regulation VIII., of* 1808; *and to modify other parts of the existing regulations respecting the duties leviable by means of stamped paper, the following rules have been enacted by the Governor in Council.*

Purposes for which stamped cadjans may be used in common with stamped papers

II. First. Stamped cadjans shall be optionally used, in common with the prescribed stamped paper, for the various purposes specified in Sections IX., X., and XI., Regulation VIII., A.D. 1808; *that is to say, for writing original obligations for the payment of money, whether bonds, promissory notes, drafts, bills of exchange, or of any other denomination whatever, for all acknowledgments for the receipt of money, and for all original deeds for the sale, gift, devise, or other transfer of property, real or personal, for all deeds of mortgage, assignment, or release, and all other deeds of contract and agreement, as well as all other legal instruments.*

The same rules and restrictions applicable to the use of stamped cadjans as to the use of the corresponding stamped papers

Second. The rules and restrictions regarding the use of the stamped papers required to be used by Sections IX., X., and XI., Regulation VIII., A.D. 1808, *shall be applied to the use of the stamped cadjans which correspond to those papers, with such exceptions only as are prescribed in the subsequent part of this regulation.*

1816. So much of its provisions as declares the value of the stamp on which deeds and instruments were required to be executed between the 9th November, 1813, and 1st July, 1817 (the period of final extension by Sec. iii., Reg. VI., 1817), is, however, necessary for reference, and is, therefore, here given. See Note to Regulation VIII., 1808.

A.D. 1814. REGULATION I.

A REGULATION *for re-establishing a Zillah Court in the District of Guntoor:* PASSED *by his Excellency the Honourable the Governor in Council of Fort St. George, on the* 10*th of June,* 1814.

[Rescinded by Section II., Regulation V., 1818.]

A.D. 1816. REGULATION I.

A REGULATION *for declaring the Contributions hitherto paid in the Province of Tanjore on account of the Cavelly Police appropriable to the support of the new Police, established or to be established, in that Province; for regulating the Collection and Assessment of those Contributions, and for extending and modifying the House-tax hitherto collected for Police purposes in the Province aforesaid:* PASSED *by the Right Honourable the Governor in Council, on the* 12*th January,* 1816, *corresponding with the* 1*st Tai of the year Yuvah,* 1736*th year of Saliwahana, and with the* 11*th Safar,* 1231 *Hijra.*

Preamble.

WHEREAS it has been deemed expedient to abolish the cavelly system in the province of Tanjore, and to establish a more efficient system of police for that province; and whereas it has become necessary, in consequence, that the funds hitherto allotted for the support of the cavelly system should be declared appropriable, under the orders of the Governor in Council, to the maintenance of the new establishments of police; and whereas those funds derived from certain proportions of the annual gross produce of cultivated lands, whether malgoozaree or lakhiraj, from certain allotments of lands rent free or favourably assessed, from a tax on houses, from the contributions termed porapoo and magama, and other taxes of various descriptions, have never been regulated by public authority, but have been partially collected, and their collection has been attended with much inconvenience, irregularity, and trouble; and whereas it is expedient that the tax on houses should preserve a due proportion to the fluctuating value of such property, and that provision should be made for collecting such sums as may be due in arrear to the police fund, according to the rules which have been heretofore adopted by the collectors of the land revenue under the sanction of the Board of Revenue; therefore, with a view to provide for the equalization and due collection of the said funds, and to render them appropriable to the support of the new police establishments in Tanjore, the Governor in Council has been pleased to enact the following regulation to take effect from the date of its being promulgated.

All contributions on account of police declared to be resumed and appropriable to the support of the new police.

II. The contributions and allowances of every description, whether in money, grain, or land, which have hitherto been allotted for the support of the cavelly system of police in the province of Tanjore, are hereby declared to be resumed, and to be appropriable, under such orders as the Governor in Council may be pleased to issue, to the maintenance of the new establishment of police in that province.

The collections from malgoozaree lands, formerly termed cavelly sotuntrums, to be continued.

How they are to be assessed and paid.

III. *First.* The contributions from malgoozaree lands hitherto levied for the cavelly establishments, under the denomination of cavelly sotuntrums, shall continue to be collected. The annual amount of such contributions, to be assessed on each village respectively, shall be the average of cavelly sotuntrums paid or payable by each village in the six years from Fusly 1214, to Fusly 1219, inclusive. The contributions above men-

tioned shall be paid by the mirassidars or renters into the public treasury at the time and in the manner which may be established for the payment of the land revenue.

Second. The amount of contribution to be paid in lieu of cavelly sotuntrum by villages which were under management during the period mentioned in the preceding clause, or during any part thereof, shall be collected at the established centage on the actual amount of the produce of such village.

How the cavelly sotuntrum contributions are to be assessed on villages under amany between Fuslies 1214 and 1219.

Third. In villages which now are or shall hereafter come under management, the collector shall levy the contributions to be raised on account of cavelly sotuntrum from the actual produce of such villages in grain, at the established rates, and shall realize the same into the public treasury, in like manner as the land revenue of those villages.

And how upon villages now or hereafter under amany.

IV. The allowances and contributions hitherto paid to the cavelgars by the holders of land wholly or partly alienated shall cease, and in lieu thereof, there shall be annually levied from the holders of such lands a contribution in money at the same rate per valy, as, under the provisions of Clause First, Section III., of this regulation, is to be collected from the holders of the neighbouring malgoozaree lands of similar description and quality.

What contributions are to be levied on account of police from lands wholly or partly alienated.

V. *First.* The house-tax which has hitherto been partially levied in the province of Tanjore in aid of the cavelly police funds shall be continued, and is hereby extended to all the towns and villages of whatever description, and to all houses, bankshalls, storehouses, shops, and all other descriptions of buildings appropriable to the private uses of individuals within that province; and the house-tax, so continued and extended, shall, for the present, be collected at the rates which have hitherto been customary in those places where the tax has been collected; that is to say, for every such building as aforesaid, at the rate of two Madras fanams per annum if covered with tiles, or one Madras fanam per annum if covered with thatch.

The house-tax to be continued and extended.

What houses and buildings are to be assessed with the tax.

To be collected for the present at the former customary rates.

Second. The huts or houses of puller and other casts of labourers employed in agriculture, and generally of all persons who earn their livelihood by manual labour, not being artificers, artizans, weavers, or manufacturers, shall be exempt from payment of house-tax; but nothing herein contained shall be taken to exempt from such payment any individuals of the descriptions above mentioned, who shall be found, upon inquiry, to be in such circumstances and possessed of such a house as would otherwise render them liable to the payment of the said tax; and it is hereby declared that persons so circumstanced shall be subject to the assessment of house-tax at the rates now or hereafter to be fixed.

Exception in favour of labourers' dwellings, unless of a superior description.

Third. The Governor in Council will, from time to time, at his discretion, direct a revision of the tax upon houses under the superintendence of the Board of Revenue, and the rates which, after each revision, shall be approved of by the Governor in Council, shall be the fixed rates at which the said tax shall be levied until altered by a subsequent revision. Provided always, that such rates shall never exceed five per centum upon the annual rent which the houses or other buildings hereby declared liable to taxation (the same being let out to hire), do actually yield to their pro-

The Governor in Council to direct occasional revisions of house-tax.

Limitation of the amount which may be assessed.

prietors respectively; or, in cases of houses remaining in the occupancy of their proprietors, then that the said rate do not exceed five per centum upon the rent at which houses or buildings of similar description and value within the province aforesaid are generally let to hire.

Police contributions to be levied by the collector of land-tax.
Arrears recoverable as arrears of revenue.

VI. *First.* The collector of the land revenue shall continue to levy and receive the sotuntrum assessment and house-tax. All arrears of such contributions as are established by this regulation shall be recoverable by distraint of personal property, in the same way and under the same process as arrears of the land revenue.

Arrears now due under the usage of the province or the orders of the Board of Revenue and of Government recoverable in like manner.

Second. All arrears which may be due to the police fund under the former usages of the province of Tanjore, or under the orders of the Board of Revenue, and of the Governor in Council, shall, in like manner, be recoverable by distraint of personal property in the mode prescribed by the regulations for the recovery of arrears of revenue.

A.D. 1816. REGULATION II.

A Regulation *for modifying some of the Provisions at present in force for the Collection of Customs on certain Articles of Commerce in the Territories immediately dependent on the Presidency of Fort St. George:* Passed *by the Right Honourable the Governor in Council, on the* 18*th January,* 1816.

[Rescinded by Section II., Act VI., 1844.]

A.D. 1816. REGULATION III.

A Regulation *for rescinding Regulation VI. of* 1806, *and for authorizing the Courts of Sudder and Foujdarry Adawlut to sanction the occasional Adjournment of the Civil and Criminal Courts under the Presidency of Fort St. George:* Passed *by the Governor in Council of Fort St. George, on the* 23*rd April,* 1816, *corresponding with the* 13*th Chitteri of the year Dhatu,* 1737*th year of Salwahana, and with the* 24*th Jamadi-ul-awal,* 1231 *Hijra.*

Preamble.

It having been found that the annual festivals called the Dassarah and Muharram are not held in equal estimation in all the provinces subject to the Presidency of Fort St. George, and that the wishes of the native officers and servants, as well as the general convenience of the courts, would best be met by authorizing vacations of the different Zillah and

Provincial Courts at different periods, the Right Honourable the Governor in Council has enacted the following rules to be in force from the date of their promulgation.

II. Section XXIII., Regulation V., of 1802, Regulation VI., A.D. 1806, and so much of Section VI., Regulation I., A.D. 1811, as declares the rule contained in Section IV., Regulation VI., of 1806, to be applicable to the fixing of the times for holding the quarterly jail deliveries at the sudder stations of the *Courts of Circuit* are hereby rescinded.

Rescissions.

III. The Courts of Sudder and Foujdarry Adawlut are hereby empowered to permit from time to time the judges of the Civil and Criminal Courts under the Presidency of Fort St. George to adjourn their respective courts, and in like manner themselves to adjourn; so that such occasional adjournments of any court shall not collectively exceed two months in each year.

Courts of Sudder and Foujdarry Adawlut to sanction occasional adjournments of the lower courts, and in like manner to adjourn themselves

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A.D. 1816. REGULATION IV.

A REGULATION *for declaring the head Inhabitants of Villages to be Moonsifs in their respective Villages, to hear and decide Civil Suits for Sums of Money, or other Personal Property, to a limited amount, and for defining their jurisdiction:* PASSED *by the Right Honourable the Governor in Council of Fort St. George, on the* 17*th of May,* 1816, *corresponding with the* 6*th Vyasi of the year Dhatu,* 1738*th year of Saliwahana, and with the* 18*th Jamadi-us-sani,* 1231 *Hijra.*

WITH a view to lessen the business of the Zillah Courts, to diminish the expense of litigation in petty suits, and to promote the speedy adjustment of such suits without subjecting individuals to the inconvenience attending a long absence from their homes, the Governor in Council has enacted the following regulation to be in force in the territories subject to the presidency of Fort St. George:—

Preamble

II. Heads of villages shall, by virtue of their office, be moonsifs within their respective villages.

Heads of villages to be moonsifs within their villages

III. *First.* In villages, whether permanently settled, rented, or in the hands of Government, where there may be more than one head man coming under the denomination of potail, reddi, pedda-capoo, yajeman, renter, or any other designation, the person who collects the revenue, and under whose authority the village servants act, shall be considered as the head of the village; no person shall act as head of the village who does not generally reside in it. Where there is but one resident renter of a village, he shall be considered as the head of the village; when the renter is not a resident, the person who rents or manages the village under him shall be considered as the head of the village.

Heads of villages defined

Where doubts may arise, collectors are to select one person to act as head of the village.

Second. Where from the names of two or more persons being introduced in the same pottah, as heads or renters of the village, or from any other cause, doubts may arise as to whom the office of head of the village belongs, the collector shall select one person and give him a pottah to act as the head of the village.

Village moonsifs exempt from oaths of office,

And from being called upon to answer for their conduct as moonsifs before the district moonsifs,

Or before the *zillah* judge.

Exception.

IV. *First.* Village moonsifs shall not be required to take any official oath.

Second. Village moonsifs shall not be liable to be called before the district moonsif to answer for their conduct as village moonsifs in any case.

Third. Village moonsifs shall not be liable to be called before the *Zillah* judge to answer for their conduct as village moonsifs, except on charges of corruption, or of having exceeded the powers of fine or imprisonment granted to them by this regulation.

Suits cognizable by village moonsifs.

V. *First.* Village moonsifs are empowered to hear, try, and determine, of their own authority and without appeal, such suits as may be preferred to them for sums of money or other personal property, the amount or value of which shall not exceed ten *Arcot* rupees.

No such suits to be entertained where the cause of action shall have arisen twelve years before the commencement of the suit.

Exceptions to the rule.

Second. Provided that, in the suits specified in the preceding clause of this section, the cause of action have arisen within twelve years previous to the institution of the suit, or that the plaintiff do shew by clear and positive proof, either that he had demanded the money, or matter in question, and that the defendant had admitted the justice of the demand, or that he had directly preferred his claim within the period above mentioned to a competent authority, and in such case, that he assign satisfactory reasons to the moonsif why he did not proceed in the suit, or prove that from minority or other good and sufficient cause he was precluded from obtaining redress.

Village moonsifs prohibited trying suits for damages of any kind.

VI. Village moonsifs are hereby prohibited from receiving or trying any suit for damages on account of personal injuries, or for personal damages of any nature.

Village moonsifs prohibited trying suits in which they or their servants are interested.

VII. Village moonsifs are hereby prohibited from trying any suit in which they or any of their immediate servants are personally interested.

Village moonsifs prohibited trying suits against persons not resident in their jurisdiction.

VIII. Village moonsifs are prohibited from trying and determining suits against any person or persons who may not be found to be actually resident within their jurisdiction at the time when such suits shall be preferred.

Vakeels to be relatives, servants, or dependants of parties: to be furnished with vakalutnamahs.

IX. *First.* Plaintiffs and defendants shall be allowed to employ a relative, a servant, or a dependant to plead before the village moonsif, on furnishing the person to be so employed with a vakalutnamah, describing his relation to his employer and the matter in which he is empowered to act.

Persons not to act as vakeels until their vakalutnamahs have been exhibited.

Second. Village moonsifs shall not in any case permit any person to act as the vakeel of another, until such person shall have exhibited a vakalutnamah containing the information required by the preceding clause.

Kurnums to assist moonsifs.

X. *First.* In hearing, trying, and determining civil suits, the village

moonsifs shall be assisted by the village kurnums, or persons holding the office of kurnum for the time being, a part of whose duty it shall be to attend as assessors to write the proceedings of the moonsifs, and when required to afford them their advice. But the village moonsif shall decide by his own opinion, whether it agree or not with that of the kurnum.

Moonsifs to decide on their own opinion

Second. The kurnums shall keep registers of the suits preferred to the village moonsifs, entering each complaint in the order in which it may be received, [*in the form prescribed in Section XXXVI. of this regulation.*]

Kurnums to keep registers of suits preferred to village moonsifs.

Rescinded by Sec u, Reg IX, 1828

XI. The plaint shall state precisely the grounds of complaint, the time when the cause of action arose, the name and residence of the person or persons complained against, the total amount or value of the property claimed, and all material circumstances which may elucidate the transaction.

What the plaint is to contain.

XII. *First.* Upon a complaint being preferred in writing to the village moonsif, he shall by a verbal summons require the defendant to appear before him in person or by vakeel, immediately or within two days from the delivery of the summons.

Village moonsifs how to proceed on a complaint being preferred to them

Defendant to be summoned verbally

Second. The summons shall be served by the village servant usually employed in carrying messages, who shall be accompanied by the plaintiff or his vakeel, to point out the defendant and to explain to him the demand against him.

Summons, by whom and how to be served

Third. If a defendant, having been served with a summons in the mode above prescribed, shall neglect or refuse to attend within the time limited, the village servant shall be called upon to make *oath* to the service of the summons, after which the village moonsif shall proceed to give judgment on the plaintiff's vouchers and the evidence of his witnesses.

On the non-appearance of the defendant on the day fixed, the village servant to make *oath* to the service of the summons

Moonsif to give judgment ex parte

XIII. If the defendant shall attend in obedience to the summons, the plaint shall be read over to him, and if he shall acknowledge that the plaintiff has a claim upon him, the village moonsif shall advise the parties to settle the matter amicably. If the plaintiff be satisfied by the defendant, the village moonsif shall cause him to execute a razeenamah, stating in what manner the defendant has satisfied him, which razeenamah shall be certified by the village moonsif as having been executed in his presence, and he shall then deliver it to the defendant.

If a defendant appear plaint to be read to him

Razeenamah to be taken if the dispute be settled amicably What it is to contain

XIV. *First.* If the defendant, on the plaint being read over to him, shall object to the demand, and the parties shall be unable to adjust the dispute amicably, the village moonsif shall deliver to the defendant a copy of the plaint, and shall require him to deliver his answer immediately, or on a certain day not more than five days after the day on which the plaint was read.

Otherwise, copy of the plaint to be delivered to the defendant, and his answer to be required

Second. The answer shall contain all that the defendant has to state regarding the case, and no further pleading shall be admitted.

Answer to state all he has to say no further pleadings to be admitted.

Third. When the answer has been filed, the village moonsif, either immediately, or on a fixed day as soon after as the business before him will permit, shall examine the truth of the complaint or claim. If the parties are willing to dispense with the examination of witnesses, the

When and how the truth of the complaint is to be examined.

village moonsif shall give his decision on due consideration of the plaint and answer, and any vouchers which may be produced; or if either party is willing to let the cause be settled by the *oath* of the other, the village moonsif shall give his decision according to such *oath*.

Village moonsifs may require the attendance of witnesses by a verbal summons.

XV. *First.* Village moonsifs are authorized to require the attendance of any person in their respective villages who may be named as a witness by any party in a suit, by a verbal summons, fixing a day for the attendance of such witness.

By whom to be served.

Second. The summons shall be served by the village servant usually charged with carrying messages, attended by the parties or their respective vakeels to point out the witnesses.

Village moonsifs authorized to cause oaths to be administered to witnesses when necessary.

The village moonsif is to exercise this authority at his discretion.

Third. The village moonsifs are authorized to cause an *oath* to be administered to witnesses in cases where they may deem it necessary.

Fourth. The village moonsif shall, previously to the examination of a witness, inform him that he has authority to cause an *oath* to be administered to him when he may think he is not giving his evidence correctly, which authority the village moonsif shall exercise at his discretion.

Witnesses to be examined vivâ voce.

Fifth. It shall not in any case be necessary to take the depositions of the witnesses in writing.

Witnesses refusing to attend or to answer liable to be fined.

Sixth. If a witness duly summoned shall refuse to attend, or attending shall refuse to answer, such witness shall be liable to be fined for every such offence at the discretion of the village moonsif, in a sum not exceeding half a rupee.

Trial to be deferred if a necessary witness be absent from the village.

XVI.* *First.* If any person, whose testimony is necessary in a suit, shall be temporarily absent from the village, the trial of the suit shall be postponed until his return.

How the evidence of a person residing in a different village is to be obtained, if within a distance of two coss.

Second. If in any case the evidence of a person residing in a different village shall be required, provided that the village be not farther distant than two coss, the moonsif requiring his attendance shall address a summons to such person containing the names of the parties in the suit, and fixing a day for his attendance, and shall forward it to the moonsif of the village in which such person shall reside, who shall cause the summons to be served by his own village servants, and shall return the summons, with a certificate that it has been duly served, to the moonsif who issued it.

Persons refusing to attend on such summons liable to be fined.

Fine, by whom to be levied.

Third. Any person refusing or neglecting to attend on such summons shall be liable to be fined in a sum not exceeding one half of a rupee, which shall be levied by the village moonsif in whose jurisdiction such person may reside, on a communication of the order imposing the fine being made to such moonsif, by the moonsif by whom such order may be passed.

How the evidence of persons residing in a different village is to be taken, if beyond the distance of two coss.

Fourth. If the person whose evidence is required shall reside at a greater distance from the village than two coss, the village moonsif is authorized to request, by a letter bearing his signature, the moonsif of the village in which the person whose testimony is required may reside, to examine such witness on written interrogatories prepared by one or both parties, or by their vakeels. The village moonsif shall examine the

* See Act VII, 1841. Though it may be questioned whether the provisions of that act are suitable or intended to be applied to the court of the village moonsif and punchayets.

witness or witnesses named in the letter, according to the requisition of it, and shall return the deposition of each witness, duly subscribed by him, to the moonsif of the village where the cause may be depending, by the time required in the letter; and every deposition so taken shall be received as good evidence in the cause.

Fifth. Village moonsifs shall not summon any woman to appear before them whose rank or caste may render it improper to require her attendance; but when the evidence of such person is necessary, the village moonsif shall require her to furnish her deposition in writing duly attested. The deponent shall state in her deposition that she is prepared to *swear* to the truth of her deposition if required.

Attendance of women of rank or high caste not to be required

To furnish their evidence in writing

XVII. The village moonsifs, in suits depending before them, are hereby strictly prohibited from requiring securities of any kind from defendants.

Village moonsifs prohibited from requiring securities

XVIII. *First.* If a plaintiff shall not attend on the day fixed for the trial, and the defendant shall be in attendance before the moonsif, the suit shall be dismissed, and shall not be revived unless the plaintiff shall shew good and sufficient cause for his absence.

Suit to be dismissed if the plaintiff do not attend at the time fixed for the trial and not again revived

Proviso

Second. If the defendant shall refuse to answer the plaint, or shall not attend on the day fixed for the trial, the village moonsif shall proceed to try the cause ex parte as prescribed in Clause Third, Section XII. of this regulation.

If the defendant do not attend or refuse to answer, the suit to be tried ex parte

XIX. Parties, or their vakeels and witnesses, guilty of disrespect to a village moonsif, shall be liable to be fined by him in a sum not exceeding one half of a rupee.

Parties, or their vakeels and witnesses, liable to fine for disrespect to village moonsifs.

XX. When the parties have been heard, the exhibits received and considered, and the witnesses on both sides examined, the village moonsif shall give judgment according to justice and right.

The decision to be passed after due consideration.

XXI. The decree shall specify the names of the parties and the names of the witnesses examined, and the titles of the exhibits read. It shall also contain an abstract statement of the principal grounds and reasons on which the decision may be passed. It shall specify the sum of money or the value of the personal property adjudged. The decree shall bear the signature or mark and seal of the village moonsif and kurnum, and shall be dated on the day on which it is passed.

What shall be contained in the decree.

XXII. Village moonsifs are hereby prohibited from allowing in their decrees a greater rate of interest in any case than the Courts of Adawlut are permitted to allow by Regulation XXXIV. of 1802.

Rate of interest to be allowed

XXIII. Village moonsifs shall have authority to allow in their decrees such reasonable periods for their execution as may appear just in particular cases, not however in any case exceeding three months.

Village moonsifs may allow a reasonable period for the execution of their decrees

XXIV. *First.* Village moonsifs shall within three days after passing a decree, cause two copies of it to be prepared by the village kurnum, and

Copies of the decree to be given to parties within three days after its date.

Date of the delivery to be certified by the moonsif and kurnum.

shall deliver one copy to each party; the date of such delivery being certified by the signature of the moonsif and of the kurnum.

Non-attendance on delivery of, or refusal to receive the decree, to be noted on the back of it, and the decree to be deposited with the kurnum.

Second. If the plaintiff or defendant shall not attend in person or by vakeel to receive a copy of the decree, or shall refuse to receive it when tendered, the village moonsif shall cause such omission or refusal to be noted on the back of the copy of the decree so omitted to be taken, or refused, and shall deposit it with the kurnum for the purpose of delivering it to the party, if he shall afterwards claim it.

Village moonsifs not to punish any party, vakeel, or witness.
Exception

Cases in which fines may be commuted for twelve hours' confinement.

XXV. No village moonsif shall punish any party, vakeel, or witness in any suit before him, excepting under the provisions specified in Clause Sixth, Section XV., Clause Third, Section XVI. and Section XIX. of this regulation; provided, however, that if the party, vakeel, or witness shall refuse, or be unable to pay the fine, the village moonsif may at his discretion commute such fine for twelve hours' confinement in the village choultry.

Suits in which village moonsifs are parties, by whom to be tried.

XXVI. Suits in which the village moonsif is a party shall be tried by the moonsif of another village, or by any competent authority.

Village moonsifs authorized as arbitrators to determine suits for sums of money or other personal property not exceeding one hundred rupees
Proviso.

XXVII. The village moonsif is authorized to hear, try, and determine as arbitrator, suits for sums of money or other personal property, the amount or value of which shall not exceed one hundred *Arcot* rupees; provided both the parties interested in such suits shall voluntarily agree in writing to refer them to his decision as arbitrator, and shall voluntarily subscribe bonds in the presence of two or more credible witnesses, who shall attest the same, binding themselves to abide by the decision of the moonsif to whom they may refer the suit, whether he be the moonsif of their own village or of any other village.

By what rules they are to be guided in deciding them.

XXVIII. In trying the suits described in the foregoing section, the village moonsif shall be guided by the rules prescribed for his conduct in trying suits preferred to him under the provisions of Section V. of this regulation, so far as those rules may be applicable.

Decisions of village moonsifs not to be carried into execution in less than thirty days after date or delivery.

On proof of corruption or partiality, the *zillah* judge to annul the decision.

XXIX. The decisions of village moonsifs, either as moonsif or arbitrator, shall not be carried into execution by them in less than thirty days after the date on which copies of the decrees may have been furnished or tendered to the parties or to their vakeels; should either party present a petition to the *zillah* judge within that period, charging the village moonsif with corruption or gross partiality, the *zillah* judge shall order execution of the decree to be stayed, and if the charge of corruption or partiality be proved to the full satisfaction of the *zillah* judge by the *oaths* of two credible witnesses at the least, he shall annul the decision.

Property in certain cases to be attached in satisfaction of decrees.

XXX. *First.* If the defendant shall not discharge the sum decreed against him within thirty days after the date on which copies of the decrees may have been furnished or tendered to the parties, or to their vakeels, or within the period limited in the decree, the village moonsif shall, on the written application of the party in whose favour the decree may be given, attach the property of the party cast to the value of the

sum decreed, and shall give immediate notice of such attachment, and of the day fixed for the sale to the district moonsif, who shall send a peon to sell the attached property by public auction in presence of the village moonsif, at the expiration of the time fixed in the notice of sale.

Notice thereof to be given to the district moonsifs

Process to be observed to sell the same.

Second. The peon deputed by the district moonsif shall not have any charge of the property under attachment. His duty shall be to sell the property and receive the purchase-money, from which he shall pay to the party in whose favour judgment may be given, the amount decreed, taking his receipt attested by the village moonsif and kurnum.

The peon deputed not to have charge of the property under attachment

Duty of the peon

Receipt to be taken.

Third. The peon deputed by the district moonsif shall be entitled to receive batta at the rate of two annas of a rupee per diem during his deputation, and the amount of such batta, together with every expense that may attend the sale, shall be defrayed by the party cast, or deducted from the proceeds of the sale, on the certificate of the moonsif and kurnum that such amount of batta and such expenses are correctly charged.

Batta to the peon and all expenses attending the sale, how to be defrayed.

Fourth. If any surplus shall remain of the proceeds of the property sold, after satisfying the decree and defraying the expenses incurred, including the batta of the peon, it shall be paid to the party cast, and his receipt for the same, attested by the village moonsif and kurnum, shall be taken by the peon, and produced to the district moonsif, along with the receipt of the party in whose favour the decree may have been passed, and the certificate of the village moonsif of the amount of batta and expenses attending the sale, as the vouchers of his having correctly discharged his duty.

Surplus, to whom to be paid

Receipt to be taken and produced to the district moonsif with what other vouchers.

Fifth. Provided, however, that in every instance of property being attached in execution of a decree, the village moonsif shall cause public notice of the intended sale of such property to be given by beat of drum through the village five days previous to the sale. Provided further, that it shall be at the option of the party cast to satisfy the judgment at any time previous to the period fixed for the sale, and that on his satisfying the judgment by paying the amount to the village moonsif, or to the peon if he should have arrived, together with the batta of the peon and all other attending expenses, according to a certificate to be furnished by the village moonsif, the village moonsif shall withdraw the attachment and restore the property to the possession of the owner.

In cases of attachment, what further notice is to be given.

Attachment to be withdrawn on satisfaction of the judgment being made previous to the time fixed for sale.

Sixth. Resistance to a sale ordered by a village moonsif shall be considered to be a breach of the peace, and shall be punished as such.

Resistance to a sale to be punished as a breach of the peace.

XXXI. The village kurnum shall keep a register of all sales by auction in his village in satisfaction of decrees, noting therein the day of sale, the particulars of property sold, its amount, the name of the purchaser, and his residence.

Register of all sales by auction to be kept: what it is to contain.

XXXII. Suits tried by village moonsifs shall be exempt from fees, stamp duties, batta, and charges of every description, excepting those specified in Section XXX. of this regulation.

Suits tried by village moonsifs exempt from fees, stamp-duties, and all charges.

XXXIII. All fines levied by the village moonsifs shall be sent at the end of each month to the district moonsif, with a list stating the names and situations of the parties from whom such fines have been levied, and the reasons for which the fines were imposed.

Amount of fines levied to be sent monthly to the district moonsif with lists

What to contain.

No exhibits to be admitted which are not written on the prescribed stamped paper or cadjan.

XXXIV. *First.* The village moonsifs are prohibited from admitting as an exhibit, or from receiving in evidence, any obligation, bond, deed, or document, whether it be the original or a copy, of a description which is or may be required to be written on stamped paper or stamped cadjan, unless it shall have been duly executed on stamped paper or stamped cadjan of the description and value prescribed by the regulations.

A list of rates of duties on stamped paper and stamped cadjans to be lodged with the village kurnum.

Second. A list of the prescribed rates of duties on stamped paper and stamped cadjan, specifying the dates on which it was enacted that the collection of those duties respectively should commence, shall be furnished by the collectors to every village kurnum in their respective zillahs, for the guidance of the village moonsifs.

Village moonsifs liable to prosecution for corruption or oppressive and unwarranted acts.

Punishment on conviction.

Not liable to prosecution for errors or want of form.

Proviso under which process is to be issued on charges of corruption.

XXXV. *First.* Village moonsifs shall be liable to prosecution in the *Zillah* Court for corruption in the discharge of their trust by either party in the suit, and for any oppressive and unwarranted act of authority by the party injured, and upon proof of the charge to the satisfaction of the judge, he shall in the first-mentioned case adjudge the offender to pay the prosecutor three times the amount or value of the money or property corruptly received, with all costs of suit; and in the second, award such damages and costs to the party injured as may appear to him equitable; but no village moonsif shall be liable to be prosecuted for want of form, or for error in his proceedings or judgment; nor shall any process whatever be issued against a village moonsif who may be charged with corruption, or any oppressive and unwarranted act of authority, unless the judge shall be previously satisfied by sufficient evidence that there is probable cause to believe that the charge is well founded, and unless the charge shall be preferred within three months from the date of the act complained of.

The party by whom or for whom the corruption is practised to be fined.

Proviso.

Second. The *zillah* judge shall, on charges of corruption, fine the party by whom or for whom the corruption may have been practised in the suit, provided he shall have assented to such corruption, in a sum equal to the value of the thing or sum of money which the village moonsif may be proved to have so corruptly received.

If the corruption be not proved, the moonsif to have damages and costs, and the party making the groundless charge to be fined.

Third. If the corruption charged against any village moonsif shall not be proved to the satisfaction of the *zillah* judge, he shall award full costs and such damages to the village moonsif as may appear to him equitable, and he shall levy a fine from the party making such groundless charge, not exceeding the value of the thing or sum of money charged to have been corruptly received.

XXXVI. to XXXVIII. [What reports to be sent to district moonsif.] —*Rescinded by Section II., Regulation IX.*, 1828.

Copy of this regulation to be lodged with the village kurnum.

XXXIX. A copy of this regulation shall be lodged with and preserved by each village kurnum, for the information of the village moonsifs.

A.D. 1816. REGULATION V.

A REGULATION *for authorizing Village Moonsifs to assemble Village Punchayets for the Adjudication of Civil Suits for Sums of Money or other Personal Property, without Limitation as to Amount or Value, within their respective Jurisdictions, and for defining the Powers and Authority to be vested in such Village Punchayets:* PASSED *by the Right Honourable the Governor in Council of Fort St. George, on the* 17*th May,* 1816, *corresponding with the* 6*th Vyasi of the year Dhatu,* 1738*th year of Saliwahana, and with the* 18*th Jamadi-us-sani,* 1231 *Hijra.*

Preamble.

IT being desirable, with a view to diminish the expense of litigation, and to render the principal and more intelligent inhabitants useful and respectable by employing them in administering justice to their neighbours, that civil suits between the native inhabitants of the territories subject to the Presidency of Fort St. George should be referred for adjudication to assemblies denominated punchayets, and that for the purpose of facilitating such reference, the village moonsifs should be authorized to summon a punchayet on the application of both parties in a suit, and to refer such suit to be heard, tried, and determined by such punchayet, and it being deemed expedient to protect members of village punchayets from being called to account for their conduct in the performance of these duties, except on charges of corruption, the Governor in Council has enacted the following rules:—

Village moonsifs authorized to summon punchayets within their respective villages for the decision of suits for sums of money or other personal property of any amount or value.

II. *First.* Village moonsifs are hereby declared to be authorized to summon punchayets within their respective villages for the decision of suits for sums of money or other personal property, without limitation as to amount or value, in the two following cases:—

Proviso.

Second. In suits where both plaintiff and defendant may jointly agree that the matter at issue shall be determined by a village punchayet without appeal, and may prefer a request in writing to the village moonsif to summon a punchayet, whether he be the moonsif of the village in which the parties reside, or of any other village; or where one party having preferred a request in writing to the village moonsif to summon a punchayet, the other party, being an inhabitant of the same village, on being summoned by the village moonsif, shall attend and voluntarily give his assent in writing to the village moonsif agreeing to that mode of trial.

No such suits to be entertained when the cause of action shall have arisen twelve years before the commencement of the suit.

Third. Provided, however, that in the cases specified in the preceding clause of this section, the cause of action have arisen within twelve years previous to the institution of the suit, or that the plaintiff do shew by clear and positive proof either that he had demanded the money or matter in question, and that the defendant had admitted the justice of the demand; or that he had directly preferred his claim within the period above mentioned to a competent authority, and in such case that he assign satisfactory reasons to the punchayet why he did not proceed in the suit, or prove that from minority, or other good and sufficient cause, he was precluded from obtaining redress.

Exception to the rule.

Punchayet to consist of an odd number; the majority shall decide.

III. *First.* The village punchayet shall always consist of an odd number, never less than five nor more than eleven, and the majority shall decide.

Of whom to be composed.

Refusing inhabitant liable to fine.

How to be levied.

Second. The village punchayet shall be composed of the most respectable inhabitants of the village, who shall be called upon to serve in rotation whenever their number is sufficient for this purpose, and any inhabitant of the village refusing to serve on a village punchayet shall be liable to be fined at the discretion of the village moonsif in a sum not exceeding five *Arcot* rupees, which shall be levied, if necessary, by the village moonsif under the provisions for the execution of decrees in Section XXX., Regulation IV., 1816.

Inhabitant of a neighbouring village may be placed on a punchayet.

When the parties are of different castes, how the punchayet is to be formed.

Third. Any respectable inhabitant of a neighbouring village may be placed on a village punchayet, if he be willing to undertake the duty.

Fourth. When the parties in suits are of different castes or professions, the village moonsif shall, in all practicable cases, name an equal number of persons of the caste or profession to which each party may belong to compose a part of the village punchayet, and shall complete the punchayet by the selection of a person or persons belonging to a caste or profession different from that of both the parties.

Challenged members to be withdrawn.

Fifth. If either party shall object to any one or more of the members nominated to compose the village punchayet, and the village moonsif shall consider such objection to be well grounded, he shall withdraw the members objected to and appoint others to serve in their stead.

When the parties consent, each to name two members and the moonsif one; in other cases, the moonsif is to name the whole punchayet.

Parties naming two each, to be avoided if possible.

Sixth. When the parties may desire it, they shall each name two members, and the village moonsif shall name another person who may be unobjected to by the parties, to form the punchayet; but on all other occasions, the whole shall be nominated by the village moonsif; the practice of the parties naming two members each shall never be allowed when it can be avoided.

How the punchayet is to proceed.

IV. *First.* The village punchayet, being formed as prescribed in the foregoing section, shall proceed to investigate the matter referred to them in conformity to the following rules:—

An agreement to be taken from the parties to abide by the decision of the punchayet.

Second. The village punchayet shall commence their proceedings by requiring from the parties an agreement in writing to abide by the decision of such punchayet, whose names shall be inserted in the agreement, which shall be witnessed by the village moonsif and kurnum, and dated on the same day.

Vakeels to be relatives, servants, or dependants of the parties employing them.

To be furnished with vakalutnamahs.

Third. Vakeels for plaintiffs and defendants shall be admitted to plead before village punchayets, provided that every person so appearing as a vakeel be a relative, servant, or dependant of the person by whom he may be employed, and provided he be furnished with a vakalutnamah, describing his relation to his employer, and the matter in which he is empowered to act; such vakalutnamah shall be exhibited by the vakeel before he be permitted to do any act in the suit.

Plaint to be received in presence of the parties or their vakeels.

What it is to contain.

Fourth. The parties being present in person or by vakeel, the village punchayet shall receive the written plaint of the complainant, which shall state precisely the grounds of complaint, the time when the cause of action arose, the name and residence of the person or persons complained against, the total amount or value of the property claimed, and all material circumstances which may elucidate the transaction.

Fifth. The plaint shall be read to the defendant, or his vakeel, and the defendant or his vakeel shall be required by the punchayet to give in his answer, either immediately, if he shall be prepared to deliver it, or on a day to be fixed, which shall not be later than one week from the reading of the plaint.

Plaint to be read to the defendant.

Answer to be required.

Sixth. The defendant shall state in his answer all that he has to say regarding the case, and no further pleadings shall be admitted.

Answer to state every thing regarding the case: no further pleadings to be admitted.

Seventh. The village punchayet, after the answer has been given in, shall receive from the plaintiff and defendant their exhibits and lists of their witnesses, and shall fix an early day for the trial, with reference to the convenience of the parties and witnesses respectively.

Exhibits and lists of witnesses to be then received and a day to be fixed for the trial.

Eighth. The village punchayet shall immediately communicate the lists of witnesses and the day fixed for the trial, to the village moonsif, who shall require the witnesses to be in attendance on that day.

Lists of witnesses and the day fixed for trial to be communicated to the village moonsif.

Ninth. The parties and witnesses being in attendance on the prescribed day, the village punchayet shall proceed to take the depositions of the witnesses in the manner usual in the caste to which they may respectively belong, on separate papers or cadjan leaves, in all cases in which the matter at issue may exceed the value or amount of twenty *Arcot* rupees; the deposition shall be read over to the witness, who shall then subscribe the deposition with his or her name, or mark.

How he is to proceed.

How the depositions of witnesses are to be taken.

In what cases to be committed to writing.

Tenth. In cases in which the matter at issue may be of smaller amount or value than twenty *Arcot* rupees, it shall be discretionary with the village punchayet to take the depositions of the witnesses in writing or not.

In other cases, the punchayet to use its discretion.

Eleventh. The village punchayets are authorized to cause an *oath* to be administered to witnesses in cases where they may deem it necessary.

The punchayet authorized to cause *oaths* to be administered to witnesses when necessary.

Twelfth. The village punchayets shall not put a question to any witness suggesting a particular answer, and shall, previous to the examination of a witness, inform him that they have authority to cause an *oath* to be administered to him when they may think he is not giving his evidence correctly, which authority the village punchayets shall exercise at their discretion.

Questions suggesting a particular answer not to be put.

Oaths to be administered to witnesses at the discretion of the punchayet.

Thirteenth. If the parties or either of them shall fail to appear in person or by vakeel at the time fixed for the trial, the village punchayet shall suspend the trial and report it to the village moonsif, who shall cause to be affixed in some conspicuous place of the village, a notice specifying that the suit will be tried on a given day, which shall not be less than five days from the date of the notice.

Trial to be suspended on the non-appearance of the parties or either of them.

To be reported to the village moonsif.

Notice to be fixed, what containing.

Fourteenth. If the plaintiff shall not appear at the time fixed in the notice, the village punchayet shall dismiss his suit, which shall not be revived unless the plaintiff shall shew good and sufficient cause for his absence.

Suit to be dismissed on the non-appearance of the plaintiff.

Fifteenth. If the defendant shall refuse to answer the plaint, or shall not attend at the time fixed in the notice, the village punchayet shall proceed to give judgment on the plaintiff's vouchers and the evidence of his witnesses.

Cause to be tried ex parte on the defendant's refusal to answer the plaint or non-appearance.

V. In cases where a witness shall neglect to attend, or attending shall refuse to give his testimony, or shall be otherwise guilty of disrespect to the village punchayet, as also where the evidence of a person is required

What circumstances to be reported to the village moonsif.

who resides beyond the jurisdiction of the village moonsif, as also in the cases of persons whose testimony may be required, but whose rank or caste may render it improper to require their attendance, as also when the parties or their vakeels may be guilty of disrespect to the village punchayet, the punchayet shall report the circumstances to the village moonsif, who is hereby authorized and directed, on receiving such reports, to take the same measures for procuring the attendance or testimony of the witnesses, or for punishing the contempts, as he would have taken under Sections XV., XVI., and XIX., Regulation IV., 1816, if the circumstances represented had occurred before himself.

How he is to proceed.

When the decree is to be written.

VI. When both parties have been heard, and the whole of the evidence has been gone through, the village punchayet shall order the parties and witnesses to withdraw, and shall write their decree according to justice and right.

What the decree is to contain.

VII. The decree of the village punchayet shall contain the names of the parties, and the names of the witnesses examined, and the titles of the exhibits read; it shall also contain an abstract statement of the principal grounds and reasons on which the decision may be passed; it shall specify the sum of money or the value of the personal property adjudged; the decree shall bear the signature or mark of the members of the punchayet, and shall be dated on the day on which it is passed. Modified by Act VIII., 1840.

Copy of the decree to be delivered to each party.

VIII. Two copies of the decree shall be prepared by the village punchayet and shall be put under a sealed cover and delivered to the village moonsif, who shall require the parties, together with the punchayet, to assemble immediately, or at a convenient day, not being later than three days from his receipt of the decree; the village moonsif shall open the seal in presence of the parties, and shall cause the kurnum to indorse on each copy of the decree the date of the delivery thereof, which shall be attested by the signature of the village moonsif, the kurnum, and any member of the punchayet; the village moonsif shall then cause the punchayet to deliver to each party in his presence a copy of the decree; but no communication shall be made to the village moonsif or to either party of the nature of the decree previously to its delivery.

Date of the delivery to be indorsed.

How to be attested.

Previous to delivery, no communication of the nature of the decree to be made.

Non-appearance or refusal to receive a copy to be indorsed on it;

IX. If either the plaintiff or defendant shall fail to appear in person or by vakeel to receive a copy of the decree, or having attended, shall refuse to receive a copy, the village moonsif shall cause the kurnum to indorse on the copy intended for such party, such omission or refusal, and the date; the village moonsif shall attest the same with his signature, which shall be witnessed by the kurnum and any member of the punchayet; the copy so indorsed shall be deposited with the village kurnum to be delivered to the party afterwards claiming it.

And copy so indorsed to be deposited with the kurnum.

Proceedings of the punchayets to be written by one of the members or the kurnum.

Stamp paper not necessary.

X. The proceedings of the village punchayet shall be written either by one of the members or by the village kurnum, and no stamp paper need be used in plaint, answer, or any process.

No appeal allowed

XI. *First.* No appeal shall be permitted from decisions passed by

village punchayets under this regulation; but if the village punchayet shall be guilty of gross partiality, it shall be at the option of either party to bring the matter by petition, upon stamp paper of the prescribed rate according to the amount of the suit, before the *judge of the zillah.*

from the decrees of punchayets.

In cases of gross partiality, how the parties to proceed.

Second. The petition shall not be received unless it be presented with the decree complained of, within thirty days after the date on which copies of the decree may have been furnished or tendered to the parties, or to their vakeels.

Petition only to be received if presented within the period limited.

Third. If the petition be received, the judge shall order the execution of the decree to be stayed pending the inquiry.

When received, execution of the decree to be stayed.

Fourth. If the partiality charged against the punchayet shall be established to the satisfaction of the judge by the *oaths* of two credible witnesses at the least, he shall in every case, whatever the amount or value of the suit may be, submit his proceedings, with his opinion on the case, to the *Provincial Court of Appeal,* who, provided the charge be proved by such proceedings to their satisfaction, shall annul the decision, and the parties shall be at liberty to have recourse to another punchayet, or to any other competent jurisdiction.

Decree to be annulled by the *Provincial* Court on proof of partiality to their satisfaction.

Fifth. Provided, however, that where the decision of a second punchayet shall agree with the decision of a former punchayet in the same suit, it shall be final.

Decision of a second punchayet agreeing with that of a former one in the same suit to be final.

Sixth. Petitions to the *judge of the zillah* under this section shall be presented by the parties in person, or by an authorized vakeel of the court, to whom a fee of four annas of a rupee shall be allowed, and no more; and the parties shall not be subjected to any other charge whatever.

Petitions to the judge, by whom to be presented.

Fee payable to the vakeel presenting them.

XII. Village moonsifs shall not receive or refer to a punchayet for trial, any suit for damages on account of personal injuries, or for personal damages of whatever nature.

Village moonsifs not to receive or refer to punchayets any suits for personal damages.

XIII. Suits tried by village punchayets shall be exempt from fees, stamp duties, batta, and all charges of every description, except the cost of the paper or cadjan leaves on which the proceedings and decree may be written, the amount of which shall be inserted in the decree, and be levied from the party cast.

Suits tried by village punchayets exempt from fees, stamp-duties, and all charges.

Exception.

XIV. Village punchayets shall not allow in their decrees a larger rate of interest than village moonsifs are authorized to allow under Section XXII., Regulation IV., 1816.

Rate of interest to be allowed.

XV. In respect to the admission of obligations, deeds, and documents, the village punchayets shall be guided by the rules prescribed in Section XXXIV., Regulation IV., 1816.

By what rules they are to be guided with respect to the admission of obligations, deeds, and documents.

XVI. *First.* Decrees of village punchayets, in cases referred to them under this regulation, shall be carried into execution by the village moonsif under the rules prescribed in Section XXX., Regulation IV., 1816, provided the amount or value of the sum of money or other personal property adjudged shall not exceed one hundred *Arcot* rupees.

Village moonsifs to carry into execution the decrees of village punchayets.

Proviso.

Second. In suits for sums of money or other personal property, the

In what cases the decrees are to be car-

ried into execution by the district moonsif.

amount or value of which shall exceed one hundred, but not exceed two hundred *Arcot* rupees, the decrees of village punchayets shall be carried into execution by the district moonsifs on the written application of the party praying execution of the judgment.

In all other cases the decrees of village punchayets to be carried into execution by the *zillah* judge.

Third. In all other cases, the decisions of village punchayets shall be carried into execution by the *zillah* judge in the mode prescribed by the regulations.

Modified by Cl. 2, Sec. xiv., Reg. XV., 1816.

Petitions to the judge praying execution of the decrees of village punchayets to be written on stamped paper.

Fee to the vakeel presenting the petition.

XVII. Petitions to the *judge of the zillah* praying execution of the decisions of village punchayets shall be written on stamped paper of the prescribed rate, according to the amount decreed, and shall be presented by the parties in person, or by an authorized vakeel of the court, to whom a fee of four annas of a rupee shall be allowed, and no more; and such application shall not be subjected to any other charge whatever.

Members of punchayets liable to prosecution for corruption.

Punishment on conviction.

Not liable to prosecution for errors or want of form.

Proviso under which process is to be issued on a charge of corruption.

XVIII. *First.* Any member or members of village punchayets shall be liable to prosecution in the *Zillah* Court for corruption in the discharge of their trust, by either party in a suit which may have been referred to such punchayet, and upon proof of the charge to the satisfaction of the *zillah* judge, he shall adjudge the offender or offenders to pay the prosecutor three times the amount or value of the money or property corruptly received, with all costs of suit; but members of village punchayets shall not be liable to be prosecuted for want of form, or for error in their proceedings or judgment; nor shall any process whatever be issued against a member or members of a village punchayet who may be charged with corruption, unless the judge shall be previously satisfied by sufficient evidence that there is probable cause to believe that the charge is well founded, and unless the charge shall be preferred within three months from the date of the act of corruption complained of.

The party by whom or for whom the corruption is practised to be fined.

Second. The *zillah* judge shall further fine the party by whom, or for whom, the corruption may have been practised in the suit, provided he shall have assented to such corruption, in a sum equal to the value of the thing or sum of money which any member or members of such village punchayet may be proved to have so corruptly received.

If the corruption be not proved, the accused to have damages and costs awarded to him or them, and the party making the groundless charge to be fined.

Third. If the corruption charged against any member or members of such village punchayet shall not be proved to the satisfaction of the *zillah* judge, he shall award full costs and such damages to the member or members complained against as may appear to him to be equitable, and he shall levy a fine from the party making such groundless charge, not exceeding the value of the thing or sum of money charged to have been corruptly received.

XIX. [What reports to be sent to district moonsifs.]—*Rescinded by Section II., Regulation IX.*, 1828.

A copy of this regulation to be lodged with the village kurnum.

XX. A copy of this regulation shall be lodged with and preserved by each village kurnum, for the information of the village moonsifs and members of village punchayets.

A.D. 1816. REGULATION VI.

A REGULATION* *for reducing into one Regulation the Rules which have been passed regarding the Office of Native Commissioners, for modifying and extending their Powers in the Trial and Decision of Civil Suits, and for authorizing them, under the designation of District Moonsifs, to discharge certain additional Duties:* PASSED *by the Right Honourable the Governor in Council of Fort St. George, on the* 17*th of May,* 1816, *corresponding with the* 6*th Vyasi of the year Dhatu,* 1738*th year of Saliwahana, and with the* 18*th Jamadi-us-sani,* 1231 *Hijra.*

Preamble.

WHEREAS the rules which have been enacted for constituting the office of moonsifs or native commissioners, for the trial and decision of causes of a certain amount, have appeared in some instances to require revision; and whereas it is expedient, with the view of expediting the trial and decision of civil suits, to extend the jurisdiction of the said moonsifs, and to authorize the judges of the Zillah Courts to employ them in the execution of certain additional duties; and whereas it will contribute to the public convenience to transfer to the Provincial Courts the control now exercised by the Sudder Adawlut in the appointment and removal of moonsifs, and to reduce into one regulation the provisions applicable to the office of district moonsifs, the following rules have been enacted:—

Regulations rescinded.

II. Regulation XVI. of 1802; such part of Section XXIII., Regulation XXVIII. of 1802, as regards native commissioners; Section II., and such part of Section V., Regulation V. of 1808, as regards native commissioners; Clauses Third, Fourth, and Fifth, Section XIII., and Sections XIV., XV., XVI., XVII., XVIII., XIX., XX., and XXIII., Regulation VII. of 1809, and Section IX., Regulation II of 1811, are hereby rescinded.

III., IV. [Commissions of "referees" and "arbitrators" to be cancelled. Moonsifs to dispose of suits pending at the passing of this regulation.]—*Extinct.*

The number of moonsifs to be fixed by Government.

New establishment of moonsifs to be submitted by zillah judges to the *Provincial* Courts, and places to be fixed on for their cutcherries.

Part rescinded and otherwise modified by Sec. ii., Reg. II., 1828.

V. *First.* The number of district moonsifs for each zillah shall be fixed by Government. The judges of the several zillahs shall, on the receipt of this regulation, prepare and submit to the *Provincial* Courts a new establishment of district moonsifs, [*whose local jurisdictions shall be so arranged as to include one or more whole tahsildaries or police jurisdictions.*] They shall at the same time report to the *Provincial* Courts the name of the town or village in each jurisdiction which may be best adapted for the establishment of each moonsif's cutcherry.

* It is enacted by Sec. xvii., Act VII., 1843, that all parts of this regulation in which the zillah judge is mentioned, except Sec. lvi., shall be understood as applicable to the judges of the Zillah Courts established under that Act; and all parts in which the Provincial Court is mentioned shall be understood as applicable to the Sudder Adawlut.

It is provided by Sec. xi., Act I., 1846, that the rules applicable to pleaders in the Zillah Courts shall apply, as far as they are applicable, to pleaders in the Moonsif's Courts.

Second. [Former sunnuds to be cancelled under this regulation.]—*Extinct.*

No person to officiate as district moonsif without the sanction of the *Provincial* Court, on the recommendation of the zillah judge.

VI. The zillah judges shall recommend to the *Provincial* Courts the persons whom they may deem fit for the office of district moonsif, but no person shall be authorized to officiate as a district moonsif without the previous sanction of the *Provincial* Court, [*nor unless he be of the Hindoo or Mahomedan persuasion.*]

Rescinded by Sec. III, Reg IV, 1832 See also Sec III, Act XXIV, 1836

Mode of proceeding for the removal of moonsifs from office

VII. *First.* Whenever a zillah judge shall see cause for the removal of a district moonsif, the judge shall report the circumstances of the case, with his opinion, to the *Provincial* Court, who will pass such order on the report as may appear to be proper.

See Sec XII, Reg VII, 1827, and Sec VI, Reg II, 1821

Zillah judges in certain cases to suspend moonsifs from office

Second. Whenever a district moonsif may be guilty of exaction, or of any other gross act of misconduct, the judge is authorized to suspend him from his office, but he shall report the circumstances of the case without delay to the *Provincial* Court.

See Sec XI, Reg.VII, 1827

Or to fine them as far as twenty rupees

Third. In other cases of misconduct and neglect of duty, which may not be of a nature to require either the suspension or dismissal of a district moonsif from his office, the judge is authorized to impose on the moonsif a fine not exceeding twenty rupees in amount, and the order of the judge in such cases shall be final.

Moonsifs to be dismissed only by the *Provincial* Courts

Fourth. No district moonsif shall be removed from his office, unless the *Provincial* Court shall be satisfied that there is sufficient cause for his removal.

Moonsifs may be sued for corruption, and are liable to costs and damages

VIII. *First.* District moonsifs shall be liable to an action in the Civil Courts for corruption in the discharge of their trust, or for extortion, or for any oppressive or unwarranted act of authority, and upon proof of the charge to the satisfaction of the judge, he shall cause the offender to pay such damages and costs to the party injured as may appear to be equitable.

See Sec XXIII, Act VII, 1843

Moonsifs liable to criminal prosecutions and to fine and imprisonment

Second. District moonsifs shall also be liable to a criminal prosecution for extortion, or other acts of oppression committed by them in the discharge of their duty, and on conviction before the *Court of Circuit*, shall be subject to fine and imprisonment proportionate to the nature and circumstances of the case; but no moonsif shall be liable to be prosecuted for want of form or for error in his proceedings or judgments, nor shall any process be issued against a moonsif who may be charged with extortion or any oppressive or unwarranted act of authority, unless the judge shall be previously satisfied by sufficient evidence that there is reason to believe the charge to be well founded.

Process not to be issued without previous inquiry into the charge.

District moonsifs to be furnished with a sunnud, and to take and subscribe an oath or solemn declaration

IX. Every person who may in future be appointed to the office of district moonsif shall be furnished by the judge with a sunnud drawn up according to the form No. 1 of the Appendix to this regulation, and previously to entering upon the duties of his office, he shall take and subscribe an oath according to the form prescribed in No. 2 of the Appendix. The judge, however, is empowered, in all cases in which he may deem it expedient, to exempt such moonsif from taking the oath, and to cause him to subscribe a solemn declaration to the same effect.

See Act XXI., 1837.

X. Whenever a sunnud may be granted to a district moonsif under the preceding section, a copy of it under the official seal and signature of the judge shall also be delivered to him, in order that it may remain permanently affixed in some conspicuous place in his cutcherry.

Copy of the sunnud to be affixed in their cutcherries.

XI. *First.* The persons who may be invested with the powers of district moonsif under this regulation are empowered to receive, try, and determine all suits preferred to them against any native inhabitant of their respective jurisdictions, *under the following limitations:**—

Amount of suits cognizable by district moonsifs.

Second. For land exempt from the payment of rent in money or in kind, either to Government or to any person representing Government and receiving its dues, the annual produce of which land shall not exceed *twenty Arcot* rupees.

Third. For land subject to the payment of rent in money or in kind, either to Government or to any person representing Government and receiving its dues, the annual produce of which land shall not exceed *two hundred Arcot* rupees.

Fourth. For houses, gardens, or any real property not of the descriptions before mentioned, the value of which shall not exceed *two hundred Arcot* rupees.

Fifth. For sums of money or other personal property, the amount or value of which shall not exceed *two hundred Arcot* rupees.

Sixth. Provided that in the cases specified in the preceding clauses of this section, the cause of action have arisen within twelve years previous to the institution of the suit, or that the plaintiff do shew by clear and positive proof, either that he had demanded the money or matter in question, and that the defendant had admitted the justice of the demand, or that he had directly preferred his claim within the period above mentioned to a competent authority, and in such case, that he assign satisfactory reasons to the moonsif why he did not proceed in the suit, or prove that from minority or other good and sufficient cause he was precluded from obtaining redress.

No such suits to be entertained when the cause of action shall have arisen twelve years before the commencement of the suit

Exceptions to the rule.

XII. *First.* District moonsifs shall not receive or try any suit for damages on account of personal injuries or for personal damages of any nature, without an order of reference to them from the *Zillah* Court.

Prohibited trying suits for damages of any nature without orders.

Second. District moonsifs are prohibited from hearing, trying, or determining any suits in which they themselves, or their relatives or dependants, or other persons employed in their cutcherries, may be parties, or in which a British subject or an European foreigner or an American may be a party.

Also from trying suits in which certain persons may be parties

Modified by Cl. 2, Sec. iii, Reg IV, 1825.

Third. District moonsifs are farther prohibited from allowing any party in a suit to plead before them in formâ pauperis.

And from admitting persons to sue as paupers

XIII. District moonsifs are themselves to investigate the suits cognizable by them in a public cutcherry or court-room, and are not to allow their officers, servants, or dependants, or any other person, to interfere therein. In receiving, trying, and determining suits, they shall be guided

Suits to be tried by the moonsifs themselves and under what rules

* The amount cognizable was extended by Sec. v., Reg. III., 1833, to one hundred rupees for la-khiraj, and one thousand rupees for other property.

by the rules prescribed in this regulation; and in points not expressly provided for in this regulation, they shall observe, as nearly as may be practicable, the rules prescribed in the regulations for the guidance of the *Zillah* Courts in the trial and decision of civil suits.

Certain sunnuds to be recalled and cancelled.

Vakeels to be relatives, servants, or dependants of their employers.

To be furnished with vakalutnamahs: containing what.

Vakeels not to act until their vakalutnamahs have been exhibited.

XIV. First. The zillah judges shall recall and cancel all sunnuds granted to vakeels under Section XVII., Regulation VII. of* 1809.

Second. Plaintiffs and defendants shall be allowed to employ a relative, a servant, or dependant to plead before the district moonsif, on furnishing the person to be so employed with a vakaluthamah, describing his relation to his employer and the matter in which he is empowered to act.

Third. District moonsifs shall not in any case permit any person to act as the vakeel of another, until such person shall have exhibited in open court a vakalutnamah containing the information required by the preceding clause.

Rate of interest to be allowed.

XV. District moonsifs are hereby prohibited from allowing in their decrees a greater rate of interest in any case than the Courts of Adawlut are permitted to allow by Regulation XXXIV. of 1802.

Fees to be levied on suits preferred to the district moonsifs.

XVI. *First.* The district moonsifs shall levy from the plaintiff in every suit which may be preferred to them in the first instance, a fee of one anna in the rupee on the amount or value of the property which constitutes the subject of dispute. See Reg. II, 1834.

No suit to be received until the fees be paid.

Second. They shall not receive any such suits until the prescribed fee shall have been paid.

The payment to be indorsed on the petition.

Third. They shall indorse on the petition the amount of the fee and the date of the receipt, and sign the indorsement.

What matters are to be stated in the plaint.

XVII. The plaint shall state precisely the grounds of complaint, the time when the cause of action arose, the name and residence of the person or persons complained against, the total amount or value of the property claimed, and all material circumstances which may elucidate the transaction.

The insertion of irrelevant matter in the plaint to be restrained.

Plaint to be signed, numbered, and dated.

A register-book to be kept, what to contain: to be inspected yearly by the judge.

XVIII. It shall be the duty of the district moonsif to prevent the insertion in the plaint of any irrelevant matter. The plaint shall be signed and numbered, and dated in the order in which it may be received by the moonsif, and the number of the suit, the names of the parties, the date on which the petition is received, the amount claimed, and the subject-matter of the suit, the date and abstract of the decree, the date on which copies of the decree were furnished or tendered to the parties, and the amount of the institution fee, shall be entered in a book to be kept by the moonsif, [*according to the form No.* 3 *of the Appendix.*] The zillah judge shall inspect these register books at least once a year, with a view to ascertain that depending suits are brought to a hearing according to their order on the file, and shall require the district moonsif to transmit them to the court for this purpose. Rescinded by Reg. IX., 1828.

* Clause First of this section is extinct; Clauses Second and Third are rescinded by Sec. ii., Act I., 1846, but are retained here because they are referred to in Sec. iii., Reg. XII., 1816, which is not repealed. See Sec. xiii., Act I., 1846.

XIX. *First.* When the complaint shall have been thus received and entered in the book, the district moonsif shall cause to be served on the defendant a written notice under his seal and signature, containing only the number of the suit, the names of the parties, and a short statement of the demand, and requiring the defendant to attend in person or by vakeel, and to deliver an answer to the plaint on or before a certain day, which must be specified in the notice.

What notice to be served on the defendant.

Second. The district moonsif shall deliver the notice to the plaintiff or to his vakeel, and the plaintiff may either himself serve the notice on the defendant or through any other person whom he may choose to employ for that purpose; provided, however, that the name of the person intended to be employed in this duty be in all cases indorsed on the notice by the district moonsif, previously to its being delivered to the plaintiff or his vakeel for execution.

To whom the notice is to be delivered.

Third. The person through whom this notice may be served shall require from the defendant a written acknowledgment, to be indorsed on the back of the notice, signifying that it has been duly served upon him; and he shall further cause some of the defendant's neighbours, or other inhabitant, to witness the due execution of the service, and he shall at all times state in his report the name or names of such witness or witnesses.

And how it is to be served.

XX. If a defendant who may have been served with a notice shall not appear in person or by vakeel within the time specified, and the moonsif shall be satisfied by sufficient evidence that the notice was duly served, or if the defendant having appeared shall refuse to answer the plaint, the district moonsif shall proceed to try the cause ex parte, and after examining the plaintiff's evidence in support of his claim, the district moonsif shall give judgment in the same manner as if the defendant had appeared and answered to the plaint.

Under certain circumstances the cause to be tried ex parte.

XXI. *First.* In cases in which a defendant to whom a notice may have been issued may abscond or conceal himself, or cannot after diligent search be found, or shall refuse to give the required written acknowledgment, the person entrusted with the execution of the process shall certify the same on the back of the notice, and shall require some person or persons, being neighbours of the defendant, to attest the same.

The absence of the defendant, or his refusal to acknowledge the service, how to be certified.

Second. When a return to this effect is made, the district moonsif shall cause a proclamation, written in the current language and character of the country, to be affixed in a conspicuous part of his own cutcherry, and a copy of the same on the outer door of the defendant's usual place of residence, or some other conspicuous place near it; the proclamation shall contain a copy of the original notice, and shall state that if the defendant do not appear, in person or by vakeel, within the period of fifteen days from the date of the proclamation, the suit will be brought to a hearing and determined without the appearance or answer of the defendant.

In such cases, proclamation to be issued

What it shall contain.

Third. If the defendant shall still not appear in person or by vakeel, the district moonsif, on the expiration of the period limited in the proclamation, shall proceed to try and determine the suit ex parte, as is prescribed in Section XX. of this regulation.

If the defendant do not attend within the time limited in the proclamation, the suit is to be tried ex parte.

XXII. In suits depending before them, the district moonsifs are hereby

Moonsifs prohibited

requiring security from defendants.

strictly prohibited from requiring security of any kind from the defendants; if the moonsif shall be satisfied by sufficient proof that the defendant intends to abscond and to withdraw himself from the jurisdiction of the court, or that he means to dispose of the property in his possession for the purpose of avoiding the execution of an eventual judgment against him, the district moonsif is hereby empowered to attach the defendant's property to the amount of the claim, and to hold it in attachment till the decree is satisfied.

Empowered in certain cases to attach their property to the amount of the claim.

Defendant to file an answer to the plaint any time before the plaintiff's evidence be received.

XXIII. When the defendant shall attend, either in person or by vakeel, within the period limited in the notice or proclamation, or at any subsequent period before the plaintiff's evidence or proofs shall have been received in the case, he shall be allowed to take a copy of the plaintiff's petition and to file his answer to the complaint.

Moonsifs to prevent the insertion in the answer of irrelevant matter.

No further pleadings to be admitted.

XXIV. It shall be the duty of the district moonsifs to restrain and discourage as much as possible the insertion in the answer of any matter evidently irrelevant to the suit; but the defendant shall state in his answer all that he has to say regarding the case, and no further pleadings shall be admitted.

Suits to be tried according to their order on the file.

Proviso

XXV. The district moonsifs shall try all suits depending before them in the order in which they have been filed or numbered; provided, however, that the zillah judge be at all times authorized, either upon a report from the moonsif or upon other grounds of information, to direct the moonsif to bring any particular suit or suits to a hearing and determination without attending to the regular order of the file.

See Sec. II., Reg VIII., 1817, for exceptions in soldiers' suits

Notice to be affixed in the cutcherry, if the parties are absent on the day fixed for the trial

Mode of proceeding if either party still fail to attend.

XXVI. *First.* In cases in which the answer shall have been filed, and the parties, or either of them, shall fail to appear in person or by vakeel at the time when the suit is first called over for trial, the district moonsif shall suspend the trial, and shall affix, in some conspicuous place in his cutcherry, a notice that the suit will be again called over for trial after the expiration of a fixed period, not being less than ten days. If the plaintiff shall not appear before the district moonsif in person or by a vakeel duly authorized, within the limited time, the district moonsif shall dismiss his claim; if the defendant shall not so appear by the prescribed time, the district moonsif shall proceed to try the cause ex parte.

See Act XVII., 1838.

Second. [Appeals in cases dismissed without investigation of merits.]—*Rescinded by Section III., Act XXIX.*, 1841.

Rules for the trial of suits depending before the moonsifs.

XXVII. The district moonsifs are to try the suits depending before them by hearing the pleadings of the parties, by examining their documents, and by taking the deposition of their witnesses in the presence of the parties or of their vakeels duly constituted; or if either party agrees in writing to let the cause be settled by the *oath* of the other, without appeal, the district moonsif shall give his decision according to such *oath*.

See Sec. Act V., 1840

Moonsifs authorized to summon witnesses who may not attend on the requisition of the parties.

XXVIII. *First.* If the plaintiff or defendant shall be desirous of summoning any witnesses to appear before the moonsif, and such witnesses shall not attend at the requisition of the parties, the district moonsif is

authorized to summon as witnesses any persons subject to his jurisdiction, excepting women whose rank or caste may be such as to render it improper to require their appearance in public; when the evidence of such women is necessary, it is to be taken in the mode prescribed in Clause Fifth, Section XVI., Regulation IV., 1816.

See Act VII., 1841

Exception.

Second. The summons shall specify the number of the suit on the file, the name of the party at whose request it may be issued, and the names and residence of the witnesses, and shall require them to appear at the cutcherry of the district moonsif on a specific day, and there to depose concerning the matter in dispute between the parties.

What the summons shall contain.

Third. The district moonsif shall deliver the summons to the party applying for it, or to his authorized vakeel, and such party or vakeel may either serve the summons himself or through any other person whom he may choose to employ for that purpose; provided, however, that the name of the person intended to be employed in this duty be in all cases notified to the moonsif and indorsed on the summons previously to its being delivered to the party or his vakeel for execution.

Mode in which the summons shall be served.

XXIX. *First.* If any person upon whom a summons may have been duly served shall not attend on the day appointed, the moonsif is authorized to attach any property belonging to such person which may be found within his own jurisdiction. If after a reasonable time subsequent to such attachment, the person summoned shall still omit or refuse to attend, and it shall satisfactorily appear by the *oath* of the party requiring his evidence, that the testimony of such person is material to the cause, the moonsif shall report the circumstances of the case to the zillah judge, who will exercise his discretion in issuing such farther process in order to compel the appearance of the witness before the moonsif, as might be issued under the regulations if the suit were depending before the judge.

The property of witnesses who may not attend on being duly summoned to be attached.

Moonsifs, how to proceed if they still do not attend.

Further process to be used by the judge.

Second. If, notwithstanding this further process, the attendance of the witness cannot be obtained, the judge shall at his discretion impose on such witness a fine not exceeding in any case the value or amount of the property in dispute; such fine shall be realized by the moonsif under the provisions made for the execution of decrees by this regulation.

If such process be insufficient, witness to be fined.

How to be levied.

Third. In cases in which a witness duly summoned may attend before the moonsif, but shall refuse to give his evidence, or to subscribe his deposition, the moonsif shall impose such fine upon him as may appear proper; the district moonsif is, however, strictly prohibited from realizing such fine, if it exceed ten rupees, by his own authority, without first reporting the circumstances of the case to the zillah judge, who will either remit or modify, or confirm the fine imposed by the moonsif, who will proceed to realize it if confirmed or modified, as is prescribed in the preceding clause.

Refusing witness to be fined by the moonsif.

XXX. *First* and *Second.* [Provisions for the examination of witnesses not within the jurisdiction of the Moonsif's Court.]—*Repealed by Section I., Act VII.*, 1841.

Third. The moonsifs are enjoined to take the depositions of witnesses attending before them with all due expedition, so that they may not be exposed to any vexatious delay or unnecessary detention from their respective homes and employments.

Witnesses not to be detained longer than may be necessary.

XXXI., XXXII. [What oaths shall be administered to witnesses.]—*Superseded by Act V.*, 1840.

Depositions of witnesses to be committed to writing, if the claim exceed twenty rupees.

Questions irrelevant, or suggesting a particular answer, to be avoided.

XXXIII. *First.* It shall be necessary to take the depositions of the witnesses in writing only where the claim shall exceed twenty rupees.

Second. In the examination of witnesses, the moonsifs are enjoined to prevent the parties and their vakeels from putting to them questions suggesting a particular answer, or on points evidently irrelevant to the matter in dispute.

What is to be contained in the deposition of a witness, and how it is to be attested.

XXXIV. The deposition of every witness shall commence by specifying the name, the father's name (or if the deponent be a married woman, the name of her husband), the religion, caste, profession, age, and place of residence of the deponent, and shall be subscribed by the witness, with his or her name or mark.

Exhibits on suits before moonsifs not liable to fees.

No exhibits to be admitted which are not written on the prescribed stamped paper or cadjan.

XXXV. *First.* No fees shall be levied on exhibits filed before the district moonsifs, and exhibits shall be received in suits depending before them without any written application for that purpose. The moonsifs are prohibited from admitting or filing as an exhibit, or from receiving in evidence, any obligation, instrument, bond, deed, or document, whether it be the original or a copy, of a description which is or may be required to be written on stamped paper or stamped cadjan, unless it shall have been duly executed on stamped paper or stamped cadjan, of the description and value prescribed by the regulations.

Modified by Sec. iii., Reg. II., 1825.

Copies of regulations in force regarding stamped paper or cadjans, to be furnished to the district moonsifs.

Second. Copies of all regulations in force regarding stamped paper and stamped cadjans shall be furnished by the zillah judges to every district moonsif in their respective zillahs for their guidance.

Exhibits to be dated, signed, marked, and referred to in the proceedings.

Third.. When an exhibit is filed in a suit before the district moonsif, it shall be dated and signed or sealed by him, and shall be marked with some letter or number to identify it, and such letter or number shall be distinctly referred to in those parts of the depositions of the witnesses, or of the proceedings, or of the decree, which may allude to such exhibit.

The decision is to be passed after consideration of the pleadings, exhibits, and evidence.

XXXVI. When the parties have been heard and the exhibits received and considered, and the witnesses on both sides examined, the district moonsif shall give judgment according to justice and right.

What shall be contained in the decree.

XXXVII. The decree shall specify the names of the parties, and the names of the witnesses examined, and the titles of the exhibits read; it shall also contain an abstract statement of the material facts alleged in the pleadings of both parties, and the reasons on which the decision may be passed. It shall state specifically the amount or value of the matter adjudged, and the amount of the costs or damages payable by the parties respectively. If any claim shall appear to the district moonsif to be litigious and vexatious, he shall adjudge suitable costs and damages against the plaintiff, and insert the same in the mode above directed, in the decree.

Costs and damages to be awarded in suits litigious or vexatious.

Two copies of the decree to be tendered to the parties; the date

XXXVIII. *First.* When the decision shall have been thus passed, the district moonsif shall cause two copies of it to be prepared, and after

attesting them with his seal and signature, shall, within one week after the date of the decree, tender the said copies in open cutcherry, both to the plaintiff and defendant, or to their vakeels respectively; he shall indorse on the said copies the date on which they may be tendered to the parties in open cutcherry, and if either or both of the parties shall fail to attend, or shall refuse to receive the copies so tendered, he shall certify the same on the back of the copies.

of the tender or the cause of the non-delivery to be certified by the moonsif on the back of the copies.

Second. Any district moonsif who may be guilty of wilfully mis-stating or falsifying, or of causing to be mis-stated or falsified, the date and purport of the indorsement above directed to be written on the copies of the decrees, or of keeping back such copies of decrees from either of the parties, with the view of opposing a bar to their right of appeal, shall, on proof thereof to the satisfaction of the *Provincial* Court, be liable to dismission from office, and to such discretionary fine to Government as may be deemed proper by *that court.*

Penalty for falsifying the date and purport of the indorsement and for keeping back copies of the decrees from either of the parties.

XXXIX. The copies of decrees above directed to be tendered to the parties by the district moonsifs shall not be written on stamped paper, nor are the plaint, answer, or any part of the proceedings of any suit before the district moonsif required to be written on stamped paper.

Stamped paper not required in the proceedings in any suit before moonsifs.

See Secs xi. and xii., Act I., 1846, as to vakeels

XL. If a party, vakeel, or witness, in any depending suit, shall be guilty of disrespect to the district moonsif in open court, the moonsif is empowered to impose a fine not exceeding one rupee on the party, vakeel, or witness so offending; and if the offender shall refuse or be unable to pay the fine, to commute such fine, at his discretion, for twenty-four hours' confinement in the village choultry.

Moonsifs may fine parties, vakeels, or witnesses, for disrespect, and in certain cases commute such fine.

XLI. [What reports to be sent to zillah judge.]—*Rescinded by Section II., Regulation IX.*, 1828.

XLII. The district moonsif shall have authority to carry his decrees into execution.

The district moonsif empowered to enforce his decrees.

XLIII. [*In suits for land of the description specified in Clause Second, Section XI. of this Regulation, the annual produce of which shall not exceed two Arcot rupees; in suits for land of the description specified in Clause Third, Section XI. of this Regulation, the annual produce of which shall not exceed twenty Arcot rupees;**] and in suits for real property not of the description above mentioned, and for sums of money or other personal property the amount or value of which shall not exceed twenty *Arcot* rupees, the decision of a district moonsif shall be final.

Cases in which the district moonsif's decree shall be final.

XLIV. If the suit shall have been regularly appealed, the execution of the district moonsif's decree shall be suspended or otherwise, according to the orders he may receive from the zillah judge.

Mode of proceeding when an appeal may have been admitted.

XLV. Whenever a party who may have obtained a decree in the court of a district moonsif shall be desirous of having it enforced, he shall

Mode of obtaining the execution of a decree passed by the district moonsif.

* Superseded by Reg. V., 1825, under which all suits for property in land are appealable to the Zillah Court.

present a petition to the moonsif either in person or through his vakeel; it shall state the number of the suit, the names of the parties, the date of the decision, and the total amount or value of the matter which may have been adjudged to the petitioner, either on account of the original claim or of costs of suit; the petition shall further state whether an appeal has or has not been admitted from the moonsif's decision.

The cases stated in which the moonsif is to enforce his decrees.

Process to be observed.

XLVI. In cases not appealable, and in cases appealable but which have not been appealed, if the defendant shall not discharge the sum decreed against him within thirty days after the date on which copies of the decrees may have been furnished or tendered to the parties or their vakeels, the district moonsif shall, on the petition of the party in whose favour the decree has been passed, cause his decree to be executed; if it be for real property, by causing possession of the property to be delivered to the person to whom it may be decreed; if it be for personal property, or a sum of money, by causing the specific thing to be delivered, or the value of it, or the sum of money decreed, to be levied by the public sale by auction of a sufficient portion, or, if requisite for the satisfaction of the decree, the whole of the lands, houses, and all effects, either real or personal, belonging to the party against whom the judgment may have been given; or by the attachment of his person; or, when it may be necessary, both by the sale of his property and effects and the attachment of his person.

Persons secured in satisfaction of decrees, to be sent to the zillah judge.

XLVII. On the attachment of the person of any party in satisfaction of a decree, the district moonsif shall send him, within twenty-four hours from the time of such attachment, under proper charge, to the zillah judge, to be confined in the zillah jail; he shall as soon after as possible send to the zillah judge a statement of the amount levied by the sale of his effects, and of the balance still due by him.

Fifteen days' notice to be given of sales of property attached in satisfaction of decrees.

Registers of such sales to be kept by the district moonsif.

XLVIII. *First.* In cases where a district moonsif shall attach property in satisfaction of a decree, he shall notify the day fixed for the sale by auction of such property, by a written notice, to be affixed fifteen days previously to the day of sale at his cutcherry, and at some conspicuous place in the village where the property under attachment may be situated.

Second. The district moonsifs shall keep registers of all sales by auction in satisfaction of decrees; the registers shall specify the day of sale, the particulars of property sold, its amount, and the name and residence of the purchaser.

Resistance to such sales liable to be punished as a breach of the peace.

XLIX. Resistance to the sale or transfer of property attached in execution of a decree passed by a district moonsif shall be considered a breach of the peace, and shall be liable to be punished as such.

L. [Commission allowed to moonsifs on sales in execution.]—*Rescinded by Act V.*, 1835.

Fines, how to be realized.

LI. The district moonsifs shall be authorized to realize the amount of fines which may be imposed by them, by the attachment and sale, if necessary, of the property of the offending party.

LII. The district moonsif, on or before the fifth of each month, shall transmit to the zillah judge all fines which he may have levied, or which he may have received from the village moonsifs, during the preceding month, accompanied by separate lists, stating the names and situations of the parties from whom such fines have been levied, and the reasons for which the fines were imposed.

To be sent monthly to the judge

LIII. *First.* In appealable suits, any person dissatisfied with the decision of a district moonsif shall be at liberty to appeal from it to the zillah judge, provided the petition of appeal be on the prescribed stamped paper, and presented, [*with the institution fee thereon,**] within thirty days after the date on which copies of the decrees may have been furnished or tendered to the parties or to their vakeels, in conformity with Section XXXVIII. of this regulation; a discretionary power, however, is vested in the judge, of admitting appeals from decisions of the district moonsifs, although the petitions may not be presented within the prescribed period, if the appellant shall shew satisfactory cause for not having before presented the petition.

Mode of admitting appeals from decisions of district moonsif.

* See Secs xiii and xxxi, Reg XIII, 1816

Second. All petitions of appeal from decisions of the district moonsifs are to be presented to the judge of the zillah in which the moonsifs may officiate, and the moonsifs are prohibited from receiving any petitions of appeal from their own decisions.

Petitions of appeal to be presented to the zillah judge

Third. All petitions of appeal from decisions of district moonsifs are to be presented by the appellant in person, or by one of the authorized vakeels of the Zillah Court, and if the appeal shall be admitted and the appellant and the respondent shall not plead their cause in person, their respective vakeels are to be allowed the same fees as in other suits tried before the judge.

How such petitions are to be presented.

See Act I, 1846

Fourth. Decisions of the district moonsifs are not to be set aside for want of form or for irregularity in their proceedings, but on the merits only.

Decisions of moonsifs not to be set aside for want of form

Fifth. When an appeal may be received from the decision of a district moonsif, the zillah judge is empowered to suspend the execution of the decree, provided the party appealing against it shall give good and sufficient security within a reasonable period, to be fixed by the judge, to perform the decree of the court.

In what cases the judge may suspend the execution of the decrees by moonsifs from which an appeal may be admitted.

See Act III., 1843

Sixth. The decisions of zillah judges on appeals from decrees passed by district moonsifs shall be final.

His decision thereon final

See Sec xviii, Act VII., 1843

LIV. The zillah judges may, for any reason that may appear to them sufficient, bring up for trial before them [*or their registers,*] or the sudder ameens, any causes that may be depending before the district moonsifs.

Suits depending before moonsifs may be tried by the judge or referred for trial to other tribunals

See Sec vi of this Reg.

LV. Upon the death, removal, or resignation of any district moonsif, the zillah judge shall, if necessary, immediately nominate another person in his room for the approbation of the *Provincial* Court, and shall cause all papers in the causes depending before the late moonsif to be delivered over to his successor, or otherwise to be disposed of, as circumstances may require.

When a vacancy may occur in the office of moonsif, the judge to nominate a successor

Zillah judges may refer suits of an amount stated for decision to the district moonsif.

LVI.* *First.* The *zillah judges* may refer any plaint received by them for trial and decision to any district moonsif within their respective zillahs, whether for real or personal property of the value or amount specified in *Section XI. of this regulation.*

Rules to be observed in the trial.

Second. In the trial of such suits, the district moonsifs shall be guided by the rules prescribed in this regulation for their conduct in original suits cognizable by them as district moonsifs.

District moonsif may hear and determine all suits referred by both parties.
To what amount.

LVII. *First.* The district moonsif is authorized to hear and determine, as arbitrator, all suits which may be voluntarily referred to him by both parties, whether for real or personal property, of the value or amount specified in *Section XI. of this regulation.*

Institution fee to be levied in such suits.

Second. In suits referred to district moonsifs under the preceding clause, an institution fee of one anna per rupee on the amount or value of the property in dispute shall be levied from the plaintiff, and the district moonsif is prohibited from receiving the suit until the fee has been paid.

See Sec. iv., Reg. II., 1834.

Bond to be taken from the parties

Third. The district moonsif, in cases referred to him under the preceding clauses, shall take from the parties a bond, agreeing to abide by his decision; such bond shall be executed in his presence and be attested by two credible witnesses.

District moonsif, by what rules to be guided in hearing and determining the suits above specified.

Fourth. The district moonsif, in hearing and determining the suits above specified, shall be guided by the same rules as have been prescribed for his conduct in trying suits preferred to him under Section XI. of this regulation, so far as those rules may be found applicable.

No appeals open from decisions on such suits, except in cases of partiality or corruption.

LVIII. No appeal shall be permitted from decisions passed by district moonsifs under the preceding section; but if a district moonsif shall be guilty of corruption or gross partiality, it shall be at the option of either party to bring the matter, by petition on the prescribed stamped paper, under the notice of the judge of the zillah, who, provided the petition be presented within thirty days after the date on which copies of the decrees may have been furnished or tendered to the parties or to their respective vakeels, and provided the partiality or corruption charged against the moonsif be established to his satisfaction by the *oaths* of two credible witnesses, shall annul the decree, and the parties shall be at liberty to have recourse to another moonsif, or to any competent jurisdiction.

Decree to be annulled on proof of corruption or partiality.

LIX. [Fees to be received as compensation by district moonsifs.]—*Rescinded by Section II., Regulation II.*, 1834.

Moonsifs may be employed in giving possession of real property under decrees.

LX. *First.* The zillah judges† are authorized to employ the district moonsifs in delivering over formal possession of lands, houses, or other real property, in conformity with decrees regular or summary.

Second and *Third.* [Remuneration to district moonsifs for executing Zillah Court's decrees.]—*Rescinded by Act V.*, 1835.

* This section is declared by Sec. xvii., Act VII., 1843, to be applicable to the Subordinate Judges and Principal Sudder Ameens, as extended by Sec. v., Reg. III., 1833.

† The like authority given to Subordinate Judges and Principal Sudder Ameens by Cl. 2, Sec. xvii., Act VII., 1843.

LXI. The district moonsifs may be employed, at the discretion of the zillah judges,* in the attachment and sale of personal or real property for the purpose of realizing the amount of fines imposed by the judge, [*register,*] or sudder ameens, or of decrees regular, or summary, passed by the zillah judge,* [*register,*] sudder ameens, or village and district punchayets, [*and shall be entitled to receive a commission of one anna in each rupee on the proceeds of such sales.*]

Moonsifs may be employed to sell personal or real property and to receive a commission on such sales.

Rescinded by Act V, 1835

LXII. *First.* In all cases of inheritance of or succession to landed property, the Mahomedan laws with respect to Mahomedans, and the Hindoo laws with regard to Hindoos, are to regulate the decisions of the district moonsifs; and the district moonsifs in all such cases are to obtain an exposition of the law from the law officers of the Zillah Court, to whom they are to transmit a written abstract of the case for the purpose; such exposition, however, is not to preclude a further reference to the law officers of the Zillah Courts, upon such points of law as may arise upon the cause, in the event of its being tried in appeal.

By what laws the decisions of moonsifs are to be regulated

Exposition of the law, how to be obtained

Modified by Sec. iv, Reg II, 1828

Second. In all suits relative to the inheritance of or succession to landed property, the district moonsifs are to affix, in some conspicuous part of their cutcherries, a written notification of the claim preferred, with a requisition to all persons who may have any claim to the property sued for, to prefer the same within a limited period, and their decisions are to include all claimants to the property in question who, according to the law of the parties, whether Mussulmans or Hindoos, have a just and legal title to share therein.

Notification to be issued in suits relative to the inheritance of, or succession to, landed property, and all claimants to be included in the decision

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APPENDIX.

No. 1.

Form of Sunnud to be granted to persons appointed to the office of District Moonsif.

I, A. B., judge of the zillah of ———, do hereby appoint you, C. D., to the office of district moonsif of ———; you are to hold your cutcherry at ———, and are to affix this sunnud, or a copy of it duly authenticated, in some conspicuous place in the cutcherry; under the rules now in force you will receive the remuneration to which you may be entitled for the trial and decision of suits. You shall not receive any valuable consideration from any parties or other persons on account of the institution or trial, the proceedings, process, or decision of any suit before you, except the institution fee. You are to hear and determine all suits cognizable by you, and to execute all other duties entrusted to you in your capacity of district moonsif, in strict conformity with the rules prescribed in the regulations now in force, or which may hereafter be enacted.

No. 2.

Form of oath to be administered to persons appointed to the office of District Moonsif.

I, A. B., appointed to the office of district moonsif of ———, do

* See the second note in the preceding page.

solemnly swear that in the trial and determination of all suits which may come under my cognizance, and in the execution of all the other duties of my office, I will act according to the best of my abilities and judgment, without partiality, favour, or affection; that I will not, directly or indirectly, receive, or knowingly allow any other person to receive, any money, effects, or property on account of any suit that may come before me for decision, or on account of any public duty which I may have to execute. I will strictly adhere to all the rules prescribed for my guidance, and I will in all respects truly and faithfully execute the trust reposed in me.

Nos. 3, 4, 5.

Forms of Registers and Reports.—[Rescinded by Regulation IX., 1828.]

A.D. 1816. REGULATION VII.

A REGULATION* *for authorizing District Moonsifs to assemble District Punchayets for the Adjudication of Civil Suits for Real and Personal Property, without limitation as to Amount or Value, within their respective jurisdictions; and for defining the Powers and Authority to be vested in such District Punchayets:* PASSED *by the Right Honourable the Governor in Council of Fort St. George, on the* 17*th May*, 1816, *corresponding with the* 6*th Vyasi of the year Dhatu*, 1738*th year of Saliwahana, and with the* 18*th Jamadi-us-sani*, 1231 *Hijra.*

Preamble

IT being desirable, with a view to diminish the expense of litigation, and to render the principal and more intelligent inhabitants useful and respectable by employing them in administering justice to their neighbours, that civil suits between the native inhabitants of the territories subject to the Presidency of Fort St. George should be referred for adjudication to assemblies denominated punchayets, and that for the purpose of facilitating such reference, the district moonsifs should be authorized to summon a punchayet, on the application of both parties in a suit, and to refer such suit to be heard, tried, and determined by such punchayet; and it being deemed expedient to protect members of district punchayets from being called to account for their conduct in the performance of these duties, except on charges of corruption, the Governor in Council has enacted the following rules.

District moonsifs authorized to summon punchayets within their respective jurisdictions for the decision of suits for real and personal property of any amount or value.

II. *First.* District moonsifs are hereby declared to be authorized to summon punchayets within their respective jurisdictions for the decision of suits for real and personal property, without limitation as to amount or value, in the two following cases.

* It is enacted by Sec. xvii., Act VII., 1843, that all parts of this regulation in which the Zillah Judge is mentioned shall be understood as applicable to the Judges of the Zillah Courts established under that act.

Second. In suits where both plaintiff and defendant may jointly agree that the matter at issue shall be determined by a district punchayet without appeal, and may prefer a request in writing to the district moonsif to summon a punchayet, whether he be the moonsif of the district in which the parties reside, or of any other district;—or where one party having preferred a request in writing to the district moonsif to summon a punchayet, the other party being an inhabitant of the same district, on being summoned by the district moonsif, shall attend and voluntarily give his assent in writing to the district moonsif, agreeing to that mode of trial.

Proviso.

Third. Provided, however, that in the cases specified in the preceding clause of this section, the cause of action have arisen within twelve years previous to the institution of the suit, or that the plaintiff do shew by clear and positive proof either that he had demanded the money or matter in question and that the defendant had admitted the justice of the demand, or that he had directly preferred his claim within the period above mentioned to a competent authority, and in such case that he assign satisfactory reasons to the punchayet why he did not proceed in the suit, or prove that from minority, or other good and sufficient cause, he was precluded from obtaining redress.

No such suits to be entertained when the cause of action shall have arisen twelve years before the commencement of the suit.

Exception to the rule.

III. *First.* The district punchayet shall always consist of an odd number, never less than five nor more than eleven, and the majority shall decide. The district punchayet shall sit at the station where the district moonsif's court is held.

Punchayet to consist of an odd number majority to decide.

Where to sit.

Second. The district punchayet shall be composed of the most respectable inhabitants of the district, who shall be called upon to serve in rotation, and any native inhabitant refusing to serve on a district punchayet shall be liable to be fined, at the discretion of the district moonsif, in a sum not exceeding ten *Arcot* rupees, which shall be levied, if necessary, by the district moonsif under the provisions of Section LI., Regulation VI., 1816.

Of whom to be composed.

Refusing inhabitant liable to fine.

How to be levied.

Third. Any respectable inhabitant of a neighbouring district may be placed on a district punchayet, if he be willing to undertake the duty.

Inhabitant of a neighbouring district may be placed on a punchayet.

Fourth. When the parties in suits are of different castes or professions, the district moonsif shall, in all practicable cases, name an equal number of persons of the caste or profession to which each party may belong, to compose a part of the district punchayet, and shall complete the punchayet by the selection of a person or persons belonging to a caste or profession different from that of both the parties.

When the parties are of different castes, how the punchayet is to be formed.

Fifth. If either party shall object to any one or more of the members nominated to compose the district punchayet, and the district moonsif shall consider such objections to be well grounded, he shall withdraw the members objected to and appoint others to serve in their stead.

Challenged members to be withdrawn

Sixth. When the parties may desire it, they shall each name two members, and the district moonsif shall name another person, who may be unobjected to by the parties, to form the punchayet; but on all other occasions the whole shall be nominated by the district moonsif. The practice of the parties naming two members each shall never be allowed when it can be avoided.

When the parties consent, each to name two members and the moonsif one; in other cases the moonsif is to name the whole punchayet.

Parties naming two each to be avoided if possible.

How the punchayet is to proceed.

IV. *First.* The district punchayet, being formed as prescribed in the foregoing section, shall be assembled by the written summons of the district moonsif, and shall proceed to investigate the matter referred to them, in conformity to the following rules.

An agreement to be taken from the parties to abide by the decision of the punchayet.

Second. The district punchayet shall commence their proceedings by requiring from the parties an agreement in writing to abide by the decision of such punchayet, whose names shall be inserted in the agreement, which shall be witnessed by the district moonsif and any two respectable inhabitants and dated on the same day.

Vakeels to be relatives, servants, or dependants of the parties employing them.

To be furnished with vakalutnamahs.

Third. Vakeels for plaintiffs and defendants shall be admitted to plead before district punchayets, provided that every person so appearing as a vakeel be a relative, servant, or dependant of the person by whom he may be employed, and provided he be furnished with a vakalutnamah describing his relation to his employer and the matter in which he is empowered to act, and such vakalutnamah shall be exhibited by the vakeel before he be permitted to do any act in the suit.

Plaint to be received in presence of the parties or their vakeels.

What it is to contain.

Fourth. The parties being present in person or by vakeel, the district punchayet shall receive the written plaint of the complainant, which shall state precisely the grounds of complaint, the time when the cause of action arose, the name and residence of the person or persons complained against, the value or amount of real or personal property claimed, and all material circumstances which may elucidate the transaction.

Plaint to be read to the defendant.

Answer to be required.

Fifth. The plaint shall be read to the defendant or his vakeel, and the defendant or his vakeel shall be required by the punchayet to give in his answer, either immediately, if he shall be prepared to deliver it, or on a day to be fixed, which shall not be later than one week from the reading of the plaint.

Answer to state every thing regarding the case: no further pleadings to be admitted.

Exhibits and lists of witnesses to be then received, and a day to be fixed for the trial.

Sixth. The defendant shall state in his answer all that he has to say regarding the case, and no further pleadings shall be admitted.

Seventh. The district punchayet, after the answer has been given in, shall receive from the plaintiff and defendant their exhibits and lists of their witnesses, and shall fix an early day for the trial, with reference to the convenience of the parties and witnesses respectively.

Lists of witnesses and the day fixed for trial to be communicated to the district moonsif.

How he is to proceed.

Eighth. The district punchayet shall immediately communicate the lists of witnesses and the day fixed for the trial to the district moonsif, who shall require the witnesses to be in attendance on that day.

How the depositions of witnesses are to be taken.

In what cases to be committed to writing.

Ninth. The parties and witnesses being in attendance on the prescribed day, the district punchayet shall proceed to take the depositions of the witnesses, in the manner usual in the caste to which they may respectively belong, on separate papers or cadjan leaves, in all cases in which the matter at issue may exceed the value or amount of one hundred *Arcot* rupees; the deposition shall be read over to the witness, who shall then subscribe the deposition with his or her name or mark.

In other cases the punchayet to use its discretion.

Tenth. In cases in which the matter at issue may be of smaller amount or value than one hundred *Arcot* rupees, it shall be discretionary with the district punchayet to take the depositions of the witnesses in writing or not.

The punchayet authorized to cause an *oath* to be administered to witnesses when necessary.

Eleventh. The district punchayets are authorized to cause an *oath* to be administered to witnesses in cases where they may deem it necessary. See Act V., 1840.

Questions suggesting

Twelfth. The district punchayets shall not put a question to any witness suggesting a particular answer, and shall, previous to the examination of a

witness, inform him that they have authority to cause an *oath* to be administered to him when they may think he is not giving his evidence correctly, which authority the district punchayets shall exercise at their discretion.

a particular answer not to be put.

Oaths to be administered to witnesses at the discretion of the punchayet.

Thirteenth. If the parties, or either of them, shall fail to appear, in person or by vakeel, at the time fixed for the trial, the district punchayet shall suspend the trial and report it to the district moonsif, who shall cause to be affixed, in some conspicuous place of the village wherein the defaulting party may reside, a notice specifying that the suit will be tried on a given day, which shall not be less than five days from the date of the notice.

Trial to be suspended on the non-appearance of the parties or either of them.

To be reported to the district moonsif.

Notice to be fixed: what containing.

Fourteenth. If the plaintiff shall not appear at the time fixed in the notice, the district punchayet shall dismiss his suit and award him to pay all the expenses which may have been incurred by the defendant and by the witnesses of both parties in their attendance on the punchayet, and the sum so awarded shall be recovered from the property of the defaulting plaintiff in the mode prescribed in Section XLVI., Regulation VI., 1816, unless he shall immediately pay the amount.

Suit to be dismissed on the non-appearance of the plaintiff.

Fifteenth. If the defendant shall refuse to answer the plaint, or shall not attend at the time fixed in the notice, the district punchayet shall proceed to give judgment on the plaintiff's vouchers and the evidence of his witnesses.

Cause to be tried ex-parte on the defendant's refusal to answer the plaint or non-appearance.

V. In cases where a witness shall neglect to attend, or attending shall refuse to give his testimony, or shall be otherwise guilty of disrespect to the district punchayet, [*as also when the evidence of a person is required who resides beyond the jurisdiction of the district moonsif,*] as also in the cases of persons whose testimony may be required but whose rank or caste may render it improper to require their attendance, as also when the parties or their vakeels may be guilty of disrespect to the district punchayet, the punchayet shall report the circumstances to the district moonsif, who is hereby authorized and directed, on receiving such reports, to take the same measures for procuring the attendance or testimony of the witnesses, or for punishing the contempts, as he would have taken under Sections XXVIII., XXIX., [XXX.,] and XL., Regulation VI., 1816, if the circumstances represented had occurred before himself.

Rescinded by Act VII., 1841. See Sec. xxx., Reg VI., 1816.

What circumstances to be reported to the district moonsif.

How he is to proceed.

VI. When both parties have been heard and the whole of the evidence has been gone through, the district punchayet shall order the parties and witnesses to withdraw, and shall write their decree according to justice and right.

When the decree is to be written.

VII. The decree of the district punchayet shall contain the names of the parties, and the names of the witnesses examined, and the titles of the exhibits read; it shall also contain an abstract statement of the principal grounds and reasons on which the decision may be passed; it shall specify the value or amount of the personal property, and the value or the annual produce of the real property adjudged; the decree shall bear the signature or mark of *the members* of the punchayet and shall be dated on the day on which it is passed. If any claim shall appear to the district punchayet to be evidently litigious and vexatious, they shall adjudge

Modified by Act VIII., 1840.

What the decree is to contain.

suitable costs and damages against the plaintiff, payable to the defendant, and insert the same in their decree.

Copy of the decree to be delivered to each party.

VIII. Two copies of the decree shall be prepared by the district punchayet, and shall be put under a sealed cover and delivered to the district moonsif, who shall require the parties, together with the punchayet, to assemble immediately, or at a convenient day not being later than three days from his receipt of the decree; the district moonsif shall open the seal in presence of the parties, and shall endorse on each copy of the decree, the date of the delivery thereof, which shall be attested by his signature and the signatures of any two members of the punchayet; the district moonsif shall then cause the punchayet to deliver to each party in his presence a copy of the decree; but no communication shall be made to the district moonsif, or to either party, of the nature of the decree previously to its delivery.

Date of the delivery to be endorsed by the moonsif.

How to be attested.

Previous to the delivery, no communication of the nature of the decree to be made.

Non-appearance or refusal to receive a copy to be endorsed on it;

IX. If either the plaintiff or defendant shall fail to appear in person or by vakeel to receive a copy of the decree, or having attended shall refuse to receive a copy, the district moonsif shall endorse on the copy intended for such party, such omission or refusal, and, noting the date, shall attest the same with his signature, which shall be witnessed by any two members of the punchayet; the copy so endorsed shall be deposited with the district moonsif to be delivered to the party afterwards claiming it.

and copy so endorsed to be deposited with the district moonsif.

Proceedings of the punchayet to be written by one or more of the members.

X. The proceedings of the district punchayet shall be written by one or more of the members, and no stamp paper need be used in the plaint, answer, or any process.

Stamp paper not necessary.

No appeal allowed from the decrees of punchayets.

In cases of partiality, how the party is to proceed.

XI. *First.* No appeal shall be permitted from decisions passed by district punchayets under this regulation; but if the district punchayet shall be guilty of gross partiality, it shall be at the option of either party to bring the matter by petition, upon stamped paper of the prescribed rate according to the amount of the suit, before the judge of the zillah.

Petition only to be received if presented within the period limited.

Second. The petition shall not be received, unless it be presented with the decree complained of, within thirty days after the date on which copies of the decree may have been furnished or tendered to the parties or to their vakeels.

When received, execution of the decree to be stayed.

Third. If the petition be received, the judge shall order the execution of the decree to be stayed pending the inquiry.

Decree to be annulled by the Provincial Court on proof of partiality to their satisfaction.

Fourth. If the partiality charged against the punchayet shall be established to the satisfaction of the judge by the *oaths* of two credible witnesses at the least, he shall in every case, whatever the amount or value of the suit may be, submit his proceedings, with his opinion on the case, to the *Provincial Court of appeal*, who, provided the charge be proved by such proceedings to their satisfaction, shall annul the decision, and the parties shall be at liberty to have recourse to another punchayet or to any other competent jurisdiction.

See Sec. xxi., Act VII., 1843.

Decision of a second punchayet agreeing with that of a former punchayet in the same suit to be final.

Fifth. Provided, however, that where the decision of a second punchayet shall agree with the decision of a former punchayet in the same suit, it shall be final.

Petitions to the judge.

Sixth. Petitions to the judge of the zillah under this section shall be

presented by the parties in person, or by an authorized vakeel of the court, to whom a fee of four annas of a rupee shall be allowed, and no more; and the parties shall not be subjected to any other charge whatever.

By whom to be presented.
Fee payable to the vakeel presenting them.

XII. The district moonsifs shall not receive or refer to a punchayet for trial, any suit for damages on account of personal injuries, or for personal damages of whatever nature, without an order of reference to him from the zillah judge.

District moonsif not to receive or refer to punchayets any suits for damages.
Exception.

XIII. District punchayets shall not allow in their decrees a larger rate of interest than district moonsifs are authorized to allow under Section XV., Regulation VI., 1816.

Rate of interest to be allowed.

XIV. In all cases of inheritance of, or succession to, landed property, district punchayets shall be guided by the rules prescribed in Section LXII., Regulation VI., 1816.

By what rules to be guided in cases of inheritance of or succession to landed property.

XV. In respect to the admission of obligations, deeds, and documents, the district punchayets shall be guided by the rules prescribed in Section XXXV., Regulation VI., 1816.

As also with respect to the admission of obligations, deeds, and documents.

XVI. *First.* Decrees of district punchayets, in cases referred to them under this regulation, shall be carried into execution by the district moonsif under the rules prescribed in Sections XLVI., XLVII., XLVIII., XLIX., [*and L.*,] Regulation VI., 1816: provided, first, that if the suit be for land of the description specified in Clause Second, Section XI., Regulation VI., 1816, the annual produce of such land shall not exceed the sum of twenty *Arcot* rupees; secondly, that if the suit be for land of the description specified in Clause Third, Section XI., Regulation VI., 1816, the annual produce of such land shall not exceed two hundred *Arcot* rupees; and thirdly, that if the suit be for real property not of the description above mentioned, or for sums of money or other personal property, the value or amount of such property shall not exceed two hundred *Arcot* rupees.

District moonsifs to carry into execution the decrees of district punchayets.
Proviso.

Rescinded by Act V., 1835.

Second. In all other cases the decisions of district punchayets shall be carried into execution by the zillah judge in the mode prescribed by the regulations.

See Cl. 2, Sec. xiv., Reg. XV., 1816, and Sec. xx., Act VII., 1843.

In all other cases the decrees of district punchayets to be carried into execution by the zillah judge.

XVII. Petitions to the judge of the zillah, praying execution of the decisions of district punchayets, shall be written upon stamped paper of the prescribed rate, according to the amount decreed, and shall be presented by the parties in person, or by an authorized vakeel of the court, to whom a fee of four annas of a rupee shall be allowed, and no more; and such application shall not be subjected to any other charge whatever.

See Sec xx, Act VII., 1843.

Petitions to the judge praying execution of the decrees of district punchayets to be written on stamped paper.
Fee to the vakeel presenting the petition.

XVIII. *First.* Any member or members of district punchayets shall be liable to prosecution in the Zillah Court for corruption in the discharge of their trust, by either party in a suit, which may have been referred to such punchayet, and upon proof of the charge to the satisfaction of the zillah judge, he shall adjudge the offender or offenders to pay the prosecutor three times the amount or value of the money or property corruptly

Members of punchayets liable to prosecution for corruption.

Punishment on conviction.

Not liable to prosecution for errors or for want of form

Proviso under which process is to be issued on a charge of corruption

received, with all costs of suit; but members of district punchayets shall not be liable to be prosecuted for want of form, or for error in their proceedings or judgment; nor shall any process whatever be issued against a member or members of a district punchayet, unless the judge shall be previously satisfied by sufficient evidence, that there is probable cause to believe that the charge is well founded, and unless the charge shall be preferred within three months from the date of the act of corruption complained of.

The party by whom or for whom the corruption is practised to be fined

Second. The zillah judge shall further fine the party by whom or for whom the corruption may have been practised in the suit, provided he shall have assented to such corruption, in a sum equal to the value of the thing or sum of money which any member or members of such district punchayet may be proved to have so corruptly received.

If the corruption be not proved, the accused to have damages and costs awarded to him, and the party making the groundless charge to be fined

Third. If the corruption charged against any member or members of such district punchayet shall not be proved to the satisfaction of the zillah judge, he shall award full costs and such damages to the member or members complained against as may appear to him to be equitable, and he shall levy a fine from the party making such groundless charge not exceeding the value of the thing or sum of money charged to have been corruptly received.

Rates of institution fee to be levied in certain suits

XIX. *First.* In suits preferred to district moonsifs for reference to district punchayets under the provisions of this regulation, district moonsifs are hereby authorized and directed to levy from the plaintiff an institution fee according to the following rates, viz.

1. On amount or value not exceeding one hundred *Arcot* rupees, one rupee.

2. On amount or value above one hundred, but not exceeding two hundred *Arcot* rupees, two rupees.

3. On amount or value above two hundred, but not exceeding three hundred *Arcot* rupees, three rupees; and so on progressively, whatever the amount or value may be.

Second. In suits for land of the description specified in Clause Second, Section XI., Regulation VI., 1816, the institution fee shall be calculated on ten times the computed annual produce.

Third. In suits for land of the description specified in Clause Third, Section XI., Regulation VI., 1816, the institution fee shall be calculated on the estimated annual produce of such land.

The amount of fees so directed to be levied to form part of the costs payable by the party cast.

Fourth. The amount of the fees directed to be levied under the preceding clauses shall be considered as forming a part of the costs, to be paid by the party against whom the decree may be given.

Witnesses entitled to receive batta.

In what period to be received

Rate to be determined by the district moonsif.

Batta to witnesses to be paid daily.

By whom.

XX. *First.* Every witness attending to give evidence before a district punchayet shall be entitled to receive batta at a rate not less than one, nor more than four annas of a rupee per diem, from the date of his departure from his village to the day of his return; the rate of such batta to be determined by the district moonsif with reference to his situation in life.

Second. The batta to witnesses shall be paid daily, under the orders of the district moonsif, by the party on whose behalf they may respectively be summoned.

The batta to wit-

Third. The district moonsif shall levy from the party cast, and pay to

the party in whose favour the decree may be given, the amount of batta which under this section he may have paid to the witnesses summoned on his behalf.

nesses to be paid by the party cast.

Fourth. The amount of the batta to witnesses, together with the amount of the fee paid on the institution of the suit, shall be specified by the district moonsif on the back of the decree.

The amount of batta and institution fee to be specified on the back of the decree by the moonsif

XXI. [What reports to be sent to zillah judge.]—*Rescinded by Section II., Regulation IX.*, 1828.

XXII. The fees to be levied under Section XIX. of this Regulation shall be transmitted to the zillah judge.

Institution fees to be transmitted to the judge.

[Appropriation thereof.]—*Rescinded by Act V.*, 1835.

APPENDIX.

[Forms of reports.]—*Rescinded by Section II., Regulation IX.*, 1828.

A.D. 1816. REGULATION VIII.

A REGULATION *for the Appointment of the Hindoo Law Officers of the Provincial Courts to be Sudder Ameens, or Head Native Commissioners, for the Trial of Causes referred to them by the Judges of the Zillahs in which those Courts are stationed; for confining the Office of Sudder Ameen to the Hindoo Law Officers of the Provincial Courts, and the Mahomedan and Hindoo Law Officers of the Zillah Courts; and for modifying and extending the Power of Sudder Ameens in the Trial and Decision of Civil Suits:* PASSED *by the Right Honourable the Governor in Council of Fort St. George, on the* 17*th of May*, 1816, *corresponding with the* 6*th Vyasi of the year Dhatu,* 1738*th year of Saliwahana, and with the* 18*th Jamadi-us-sani,* 1231 *Hyra.*

Preamble.

THE rules which have been enacted regarding the office of sudder ameen, or head native commissioner, for the trial and decision of causes of a certain amount or value, appearing in some instances to require revision; and it being expedient, with the view of promoting the speedy trial and decision of civil suits, to appoint the Hindoo law officers of the Provincial Courts to be sudder ameens in the zillahs wherein those courts are stationed, and to extend the jurisdiction of sudder ameens for the trial of referred causes to the amount or value of three hundred *Arcot* rupees; and it being deemed conducive to the respectability of the office of sudder ameen to restrict the appointment to that office to the Hindoo law officers of the Provincial Courts, and the Mahomedan and Hindoo law officers of the Zillah Courts, the Governor in Council has enacted the following rules

to be in force throughout the territories subject to the Presidency of Fort St. George.

Regulations rescinded

II. Sections IX., X., XI., XII., and Clauses First and Second, Section XIII., Regulation VII. of 1809, and Regulation X. of 1809, are hereby rescinded.

III. [Law officers of Zillah and Provincial Courts to be sudder ameens ex officio.]—*Rescinded by Section XXIV., Act VII.*, 1843.

IV. [Existing sunnuds to be cancelled.]—*Extinct.*

Oath to be taken by the sudder ameens.

In certain cases oaths may be dispensed with, and a solemn declaration to be subscribed.

V. Every sudder ameen shall, previously to entering upon the execution of the duties of his situation, take and subscribe an oath according to the form prescribed in No. 1 of the Appendix to this regulation, before the judge of the *Provincial* or *Zillah* Court to which he may belong; but the court is empowered, in all cases in which it may deem it expedient, to exempt such sudder ameen from taking the oath, and in lieu thereof to cause him to subscribe a solemn declaration to the same effect.

Cutcherries of the sudder ameen, where to be held.

VI. The sudder ameens are to hold their cutcherries at the station where the *Zillah* or *Provincial Court* is held, in a room belonging to the court house, or in such convenient place as the *Zillah* or *Provincial* Court may direct.

VII. [Amount referrible to sudder ameens fixed at 300 rupees.]—*Extended by Section III., Regulation II.*, 1821. *Superseded by Section IV., Regulation III.*, 1833.

What suits to be referred to the Hindoo and what to the Mahomedan law officers

VIII.* *In referring suits for trial to the sudder ameens, the judge shall generally refer such cases as are likely to involve questions of Hindoo law to the Hindoo law officers, and of Mahomedan law to the Mahomedan law officers.*

Sudder ameens to investigate suits themselves, and not to allow any other person to interfere therein

IX. The sudder ameens are themselves to investigate the suits *referred to them*† in a public cutcherry or court room, and are not to allow their officers, servants, or dependants, or any other person, to interfere therein.

Causes before sudder ameens, how to be pleaded

Judges to assign vakeels

What regulations are applicable to the vakeels employed in the sudder ameen's court

X. All causes *referred to*† the sudder ameens shall be pleaded either by the parties in person, or by an authorized vakeel of the *Provincial* or *Zillah* Court to which the sudder ameens may respectively belong. The *Provincial* and *Zillah* Courts will assign to the court of each sudder ameen, such a number of the authorized vakeels as may appear necessary. The whole of the regulations in force regarding the authorized vakeels of the

* This rule is virtually superseded by the rescission of Sec. iii., which made the law officers Sudder Ameens ex officio It is retained, however, because a law officer may sometimes be appointed a Sudder Ameen, and because it apparently accounts for the omission of any rule by which Sudder Ameens attached to the Zillah Courts may obtain expositions of the law, similar to that enacted in Clause Second, Sec. viii., Reg. I., 1827, for the Sudder Ameens attached to the Auxiliary Courts.

† Under Sec. i., Act IX., 1844, all suits within the competency of a Sudder Ameen to decide are to be ordinarily instituted in their courts.

Provincial and *Zillah* Courts shall be applicable to the authorized vakeels employed in the courts of the sudder ameens.

XI. [What suits and appeals may be referred to sudder ameens.]—*Superseded by Section IV., Regulation III.*, 1833, *and Act IX.*, 1844, *as regards original suits, and by Clause* 3, *Section VIII., Act VII.*, 1843, *as regards appeals referrible to sudder ameens.*

XII. [Register to be kept in a prescribed form.]—*Rescinded by Section II., Regulation IX.*, 1828.

See Sec. xxiii., Act VII., 1843.

Provisions of Section VIII., Regulation VI., 1816, applicable to the office of sudder ameen.

XIII. The provisions of Section VIII., Regulation VI., 1816, are hereby declared to be applicable to the office of sudder ameen.

Sec Sec. iv., Reg. VI., 1828.

What rules to be observed by sudder ameens.

XIV. The sudder ameens, in trying the causes which may be *referred to them by the zillah judge*, are to be guided by the same rules as are prescribed for the trial of suits before the judge.

[Provisions for the execution of decrees, service of process and levy of fines.]—*Superseded by Section XXV., Act VII.*, 1843, *and as regards fines on pleaders, by Section X., Act I.*, 1846.

Superseded by Cl. 3, Sec. viii., Act VII., 1843.

See Sec. viii., Act VII., 1843.

* Sec. x., Reg. XII., 1802.

What decision of sudder ameens to be final.

From what decisions appeals are open.

XV. [*The decisions of sudder ameens on the appeals referred to them under Section XI. of this regulation shall be final;*] but from their decisions in original suits [*referred under the provisions of Section VII. of this regulation*] there shall be an appeal to the zillah judge under the rules prescribed* for appeals from the decisions of [*the registers.*]

XVI. Institution fees to be the perquisites of sudder ameens.]—*Rescinded by Section II., Act XXIX.*, 1836.

APPENDIX.

No 1.

Form of Oath to be administered to Sudder Ameens.

I, A. B., sudder ameen of the zillah of ————, do solemnly swear that in the trial and determination of all suits which may come under my cognizance I will act according to the best of my abilities and judgment, without partiality, favour, or affection; that I will not, directly or indirectly, receive, or knowingly allow any other person to receive, any money, effects, or property, on account of any suit that may come before me for decision. I will strictly adhere to all the rules prescribed for my guidance, and I will in all respects truly and faithfully execute the trust reposed in me.

No. 2.

[*Form of register book of suits.*]—Rescinded by Section II., Regulation IX., 1828.

A.D. 1816. REGULATION IX.

A REGULATION* *for reducing into one Regulation certain Rules which have been passed regarding the Office of the Zillah Magistrate, for modifying and defining his Powers, and for transferring the Office of Zillah Magistrate from the Judge to the Collector of the Zillah:* PASSED *by the Right Honourable the Governor in Council of Fort St. George, on the* 13*th of September*, 1816, *corresponding with the* 31*st Avani of the year Dhatu,* 1738*th year of Saliwahana, and with the* 20*th Shawal,* 1231 *Hijra.*

Preamble.

WHEREAS, the rules which have been enacted for the guidance of the zillah magistrates have appeared in some instances to require revision; and whereas it will contribute to the public convenience to reduce into one regulation the rules in certain regulations applicable to the office of zillah magistrate; and whereas it appears expedient, in order to prevent the collision of authorities in the districts and to facilitate the administration of civil and criminal justice, to transfer the office of magistrate from the judge to the collector of the zillah, the following rules have been enacted.

Regulations rescinded.

II. Regulation VI., 1802; Sections XVII. and XVIII., Regulation XII., 1802; Sections XII. and XIV., Regulation I., 1808; Regulation XIII., 1809; Sections II., III., IV., V. and VIII., Regulation I., 1810; Regulation IV., 1811; and Sections IX., X., XI. and XII., Regulation VI., 1811, are hereby rescinded.

Collectors of the several zillahs to be magistrates in their respective zillahs.

III. The collectors of the several zillahs shall hold the office of magistrate of their respective zillahs; previous to entering upon the execution of the duties of the office, they shall take and subscribe an oath according to the Form prescribed in No. 1 of the Appendix to this regulation, before the Governor in Council, or any person whom he may commission to administer it.

See Act XXI 1837.

Assistants to the collectors to be assistants to the magistrates.

IV. The assistants to the collectors of zillahs shall be assistants to the magistrates of the zillahs.

Assistants may, in certain cases, be employed judicially.

Proviso.

V. The zillah magistrates are authorized to employ their assistants in the execution of such part of their prescribed duties as from the extent of their general business or other cause they may be unable to give due attention to themselves; provided that, previous to any such assistant entering upon the exercise of judicial authority, he shall take and subscribe

* It is provided by Section iii., Reg. III., 1817, that in cases requiring the immediate interference of a magistrate, if no magistrate be present, the *criminal judge* may do all necessary acts.

By Sec. v., Reg. II., 1827, subordinate collectors are constituted joint magistrates.

It is declared by Sec. ii., Reg. III., 1817, that nothing in the existing regulations is intended to prohibit free intercourse in official duties between the magistrates and *criminal judges.*

The duties of *criminal judges* are now, under Act VII., 1843, discharged by the subordinate judges and principal sudder ameens appointed under Regs. II. and VIII., 1827.

See Act XXI., 1837

before the magistrate an oath according to the Form prescribed in No. 2 of the Appendix to this regulation.

Assistants, having taken the prescribed oath, may, in certain cases, act judicially.

VI. The assistants to the zillah magistrates, who may have taken and subscribed the oath prescribed by this regulation, are authorized to exercise the judicial powers vested in the magistrates by this regulation, as far as may be necessary to enable them to perform the duties committed to them respectively by the magistrates with whom they are stationed.

The magistrate's official seal to remain in his custody.

VII. The magistrate shall use a circular seal one inch and three quarters in diameter, bearing the following inscription, in the Persian character and language, and also in the character and language of the district.

"The seal of the magistrate of the zillah of ——." The seal of each magistrate is to remain in the custody of the magistrate.

Special jurisdiction of the magistrates of the several zillahs Exception

VIII. The special jurisdiction of the magistrates of the several zillahs is to extend throughout the districts included in the zillahs in which they are respectively stationed; provided, however, that the magistrates be not considered to have any jurisdiction or authority whatever in the town of Madraspatnam, or any places adjacent within the limits of the jurisdiction of the Supreme Court of Judicature at Madras.

Magistrate to apprehend all persons charged with crimes or misdemeanours

IX. It shall be the duty of the magistrate to apprehend murderers, robbers, thieves, housebreakers, and disturbers of the peace, and persons charged before him with crimes or misdemeanours.

Crimes which are not bailable.

How a magistrate is to proceed if the charge be for manslaughter or illegal homicide not amounting to murder

X. *First.* Persons accused of treason, murder, robbery, setting fire to any house or village, housebreaking, theft, or counterfeiting of the coin, provided there shall appear sufficient grounds for believing the charge, shall not be admitted to bail; but if the charge be for manslaughter, or any species of illegal homicide not involving the crime of murder, the magistrate is authorized to proceed in the first instance, either by warrant for taking into custody, or by summons requiring bail, as he may judge proper, on consideration of the circumstances of the case and of the condition and character of the party accused.

Principle of the foregoing section applicable to persons privy to or incidentally accessary to heinous crimes

Second. The principle of the latter part of the preceding clause is also declared applicable to persons appearing, from the magistrate's inquiry, to have been only privy or incidentally accessary to crimes of a heinous nature, without being concerned therein either as principal, or as aiding and abetting, procuring or instigating the perpetration thereof.

Points to be attended to by the magistrates in their inquiries into charges preferred to them.

XI. The magistrates, upon receiving any charge for any heinous crime or misdemeanour, are to be careful to ascertain from the complainant, and to record upon their proceedings, on what day of the month, in what year, and at what time of the day or night the act complained of was committed.

How a magistrate is to proceed on a complaint being preferred to him for any of the crimes herein specified declared not bailable,

XII. *First.* Upon a complaint being preferred in writing to a zillah magistrate against any person subject to his jurisdiction for treason, murder, robbery, housebreaking, theft, setting fire to a village, house, or other building, counterfeiting the coin, or any other crime declared not to

or though the crime charged be of a heinous nature but not expressly declared to be unbailable.

be bailable, or though not so expressly declared, involving such dangerous breach of the peace or degree of criminality as from the facts deposed to before the magistrate may appear to require the immediate apprehension of the accused, and to render the admission of bail unsafe and improper, the magistrate, on the truth of the charge being deposed to by the complainant, or in the manner required by the following sections, shall issue a warrant under his official seal and signature, specifying the crime charged, and directing the officer entrusted with the execution of it to apprehend the person accused.

To issue warrant under his official seal and signature: what the warrant is to contain.

Form of warrant for apprehension.

Second. The warrant shall be in the Form prescribed in No. 3 of the Appendix to this regulation, and shall be directed to any police officer.

What to be specified in warrant when bail or security for keeping the peace is to be taken.

Third. If the magistrate shall in any bailable case judge it proper to authorize the officer to whom the warrant is committed to receive bail for appearance (with or without security for keeping the peace), it shall be so specified in the warrant, with the extent of the bail (and security) required according to the Form prescribed in No. 4 of the Appendix to this regulation.

Form of bail bond for appearance before the magistrate.

Fourth. The bail to be taken for appearance before the magistrate shall be in the Form prescribed in No. 5 of the Appendix to this regulation.

Form of security-bond for keeping the peace.

Fifth. When security may be required for keeping the peace, it shall be taken in the Form prescribed in No. 6 of the Appendix to this regulation.

Personal attendance of complainant, under certain circumstances herein described, not indispensable.

XIII. The attendance and deposition of the complainant shall not be indispensable in preferring a criminal charge, when sufficient reason can be assigned for his non-attendance. If the complainant be unable to attend in person, or were not himself present at the commission of the act complained of, his written plaint, presented by an authorized agent and corroborated by the deposition *on oath* (*or* on a solemn declaration, *if the rank or caste of the deponent render it improper to require an oath*) of one or more persons present or otherwise personally informed of the truth of the complaint, shall be sufficient grounds for receiving the same, and for issuing process against the party accused, unless the magistrate see reason for making the previous inquiry authorized by the following section; but no warrant for apprehension shall be issued on a complaint, unless the truth of the charge be deposed to *on oath* (*or* under a solemn declaration) either by the complainant himself, or by some other credible person. This shall not, however, be construed to restrict a magistrate from issuing process to apprehend a person suspected of having committed a heinous crime, or for whose apprehension sufficient cause may appear upon the report of a police officer, or upon any other credible information.

Exception.

No warrant to be issued unless the charge be sworn to or deposed to under a solemn declaration either by the complainant or some other credible person.

Magistrate not restricted from issuing process for apprehension upon the report of officers of police or other credible information.

How the magistrate is to proceed if he see cause to distrust the truth of a complaint.

XIV. If the magistrate see cause to distrust the truth of a complaint preferred to him, and if the immediate arrest of the party complained against appear unnecessary and objectionable, the magistrate is authorized to postpone his issuing his warrant for apprehension, and to cause a previous inquiry to be made, either by means of the local police officers, or in such other mode as he shall judge most proper for the purpose of ascertaining the truth or falsehood of the complainant's allegations. If the result of such inquiry induce the magistrate to believe the charge well founded, and the offence committed be of the nature described in Sec-

tion XII. of this regulation, he shall issue his warrant for apprehending the accused therein directed; but if the accusation appear groundless, or though well founded, if the offence be of a bailable nature, he is empowered in the former case to dismiss the complaint, or in the latter case to direct bail to be taken from the accused for appearance in person or by vakeel to answer the charge as provided by the following section.

How a magistrate is to proceed against a person charged with a bailable offence.

XV. *First.* Upon a complaint in writing being preferred to a zillah magistrate against a person subject to his jurisdiction, for any bailable crime or misdemeanour which may not appear to require the immediate apprehension of the accused, the magistrate, upon the party complaining making *oath* (*or* a solemn declaration *if the party be of a rank or caste which would render it improper to compel him to take an oath*) to the truth of the complaint, or without such *oath* (*or* declaration) if satisfactory reason be assigned by the complainant for not attending to make the same, and the truth of the charge be deposed to by some other credible person or persons, shall issue a summons under his official seal and signature, to be served by any police officer.

What the summons is to contain.

Second. The summons in all such instances shall specify the offence with which the accused is charged, and shall, according to the circumstances of the case, contain a requisition to attend either in person or by vakeel, to answer to the charge on or before a certain day to be stated in the summons, according to the Form prescribed in No. 7 of the Appendix to this regulation.

Form to be substituted when bail is required.

Third. If it be deemed necessary to require bail, the extent of the bail is to be specified in the summons, in the Form prescribed in No. 8 of the Appendix to this regulation.

Bail-bond to correspond with that prescribed in Clause Fourth of Section XII.

Fourth. The bail to be taken for appearance before the magistrate in pursuance of the above clause shall correspond with the Form prescribed by Clause Fourth, Section XII. of this regulation.

See Act X., 1845.

How a magistrate is to proceed if the accused on whom a summons may have been served shall not attend in person or by vakeel and give bail if required.

XVI. If an accused person on whom a summons shall have been served, shall not attend in person or by vakeel and give bail (if required) according to the exigence of the summons, within the period limited by it, the magistrate shall issue a warrant, under his official seal and signature, for the apprehension of the accused, and if he abscond or conceal himself so that he cannot be found, shall proceed against him in the manner directed in the following section.

Magistrates how to proceed against persons who may evade their processes by flight or concealment.

XVII. *First.* The magistrate is to cause a written proclamation in the language of the district, requiring the absent party to appear to answer the charge against him within a fixed period of time, not less than one month, to be publicly read and proclaimed by beat of drum, and shall cause such proclamation to be affixed in some conspicuous part of his cutcherry, as well as on the outer door of the house in which the party may have usually dwelt, or some conspicuous place in the village in which he may have generally resided. In case the party shall not appear and deliver himself up within the period fixed by such proclamation, the magistrate, on receiving the police officer's return to this effect, is to order the attachment of any land or other real property held by the absentee within his jurisdiction, in the following manner.

Lands or other real property to be attached upon non-attendance after proclamation.

Attachment, in what manner to be made if the absentee be a proprietor or farmer of land paying revenue to Government.

Second. If the absentee be a proprietor of land or sudder farmer paying revenue to Government, the magistrate shall hold the land or farm of the absentee in attachment, and take such measures as may be necessary for the due care and management of the lands whilst under his charge, subject to the instructions of the Board of Revenue, to whom he is to make an immediate report of any instances of land being attached by him under this regulation.

Or if the absentee be not of the above descriptions.

Third. If the absentee be not a proprietor or farmer of land paying revenue to Government, but as a dependent talookdar, under-farmer or ryot, or in any other capacity whatever, be the tenant of landed property capable of attachment, the magistrate shall attach the same, and adopt the necessary measures for the due care and management of it whilst under his charge, paying from the product any rent which may become due to the zemindar or other person entitled thereto, and deducting all necessary expenses in the account to be rendered to the absentee, whenever he may attend, and the attachment of his property be removed.

Attachment to be taken off on attendance of the absentee, and an account rendered of receipts and disbursements.

Fourth. In all instances wherein an attachment of property may be made under the foregoing rule, the magistrate, immediately on the attendance of the party for whose appearance it was ordered, shall direct that the attachment be removed, and that a full and fair account be rendered of all receipts and disbursements during the period of attachment.

Report to be made to the Governor in Council in case the absentee shall not attend within six months after the attachment of his lands.

Fifth. Should the absentee neglect to attend for a period of six months after the lands have been ordered under attachment, the magistrate shall report the case to the Governor in Council, who will pass such order upon it, and upon the future disposal of the lands, as he may judge proper.

Magistrates how to proceed against persons resisting their processes.

XVIII. *First.* If any person amenable to the authority of the magistrate shall resist, or cause to be resisted, any warrant, order, or other process of any magistrate, the magistrate of the zillah in which such resistance may have been made, on the same being charged on *oath*, shall, if practicable, cause the party to be apprehended and brought before him to answer to the charge. If the party shall abscond or conceal himself, so that he cannot be apprehended, the magistrate is to cause a written proclamation in the language of the district, requiring the party to appear to answer the charge against him within a fixed period of time, not less than one month, to be publicly read and proclaimed by beat of drum, and to be affixed in some conspicuous part of his cutcherry, as well as on the outer door of the house in which the party may have usually dwelt, or some conspicuous place in the village in which he may have generally resided. If the party charged as above cannot be apprehended, and shall not within the period fixed by proclamation appear to answer the charge against him, or if he shall be apprehended, or shall appear in pursuance of the proclamation, and after receiving his answer to the charge and hearing the evidence he may adduce in his defence, it shall be proved to the satisfaction of the magistrate that he is guilty of the charge, the magistrate is to pass judgment against him in the following manner.

Judgment to be passed against persons convicted of such resistance.

If a proprietor of land paying revenue to Government, or lakhiraj land.

Second. If the offender be a zemindar, talookdar, or other proprietor of land paying revenue to Government, or the proprietor of altamgah, aymah, or other lands exempt from revenue, situated within the zillah in which the resistance was made, and the case shall not come under the rule provided in Clause Fifth of this section, the magistrate shall declare such

lands to be forfeited to Government, and shall hold them in attachment till the receipt of orders from the Governor in Council, to be communicated in the manner hereafter directed.

If a sudder farmer holding a farm from Government.

Third. If the offender be a sudder farmer holding a farm from Government within the zillah in which the resistance may have been made, and the case shall not come under the rule provided in Clause Fifth of this section, the magistrate shall declare his lease cancelled, and shall proceed as above required with respect to lands declared forfeited to Government.

If the offender be not of the above descriptions.

Fourth. If the offender be not a proprietor of land or sudder farmer paying revenue to Government as described in the two foregoing clauses, the judgment against him shall declare him liable to the payment of such fine to Government as may appear proper upon a consideration of his rank and circumstances in life, and the offence of which he may be convicted; and the magistrate shall immediately proceed to the attachment of any property appertaining to the offender for the recovery of the same, in the manner authorized by the regulations for the recovery of sums of money decreed by the Civil Courts of Justice. In cases wherein the offender may have been apprehended, and may not be possessed of property adequate to the discharge of the fine adjudged against him, the magistrate, with the concurrence of the Foujdarry Adawlut, may commute such fine to imprisonment or corporal punishment.

Magistrates may inflict punishment in certain cases of resistance without the reference required in Clause Sixth

Fifth. In cases of resistance to the process of a magistrate, not attended with aggravating circumstances, wherein the magistrate before whom the charge may be tried shall judge it sufficient to inflict the punishment which he is authorized to inflict for petty offences under Section XXXII of this regulation, it shall not be necessary to transmit his proceedings for the consideration of the Foujdarry Adawlut, as required by Clause Sixth of this section, but the judgment of the magistrate shall be executed, in such cases, without reference to the Foujdarry Adawlut.

Judgments of magistrates under this section (with the exception specified) to be reported to the Foujdarry Adawlut, without whose orders such judgments not to be considered final and conclusive.

Sixth. Provided always, that the whole of the judgments passed by the magistrates under this section (with an exception to the judgments passed under the preceding clause) be immediately reported, with a complete copy of their proceedings, to the Court of Foujdarry Adawlut, and the orders of that court be received under the following section, before the judgment passed by a magistrate under this section be considered final and conclusive.

Foujdarry Adawlut how to proceed in cases referred to them under this regulation

XIX. The Foujdarry Adawlut, on the receipt of the proceedings above referred to, are to pass such order thereupon as they may think proper, on due consideration of the evidence and all the circumstances of the case; and in all instances wherein the forfeiture of the offender's lands or lease may appear to them too severe a punishment for the offence, they are authorized to commute the same for such fine to Government as they may judge adequate, and order the attachment of the lands to be taken off on the payment thereof. The sentence of the Foujdarry Adawlut is to be final in all cases of fine, imprisonment, and corporal punishment; but in case they shall confirm the judgment of the magistrate for a forfeiture of the offender's lands or lease, they are, previously to ordering such sentence to be carried into execution, to transmit their proceedings with those of the magistrate to the Governor in Council, who will finally determine whether the sentence of forfeiture shall be put in force, or commuted to a

fine, or otherwise, and who, whenever he may order the land or lease of the offender to be forfeited to Government, will at the same time cause the necessary instructions for the future disposal of the land to be conveyed to the collector through the Board of Revenue. In case the magistrate's judgment of forfeiture be set aside either by the Foujdarry Adawlut, or the Governor in Council, he shall immediately on being informed thereof, and on receipt of the fine (if a fine be ordered), remove the attachment and cause a full and fair account to be rendered of all receipts and disbursements during the period of attachment.

Magistrates not restricted from admitting to bail persons accused of resistance to criminal processes in certain cases.

In what cases such persons may be admitted to bail.

XX. The rules contained in Section XVIII. of this regulation shall not restrict the magistrates from admitting to bail persons charged with resistance to a warrant, order, or other process of a magistrate in cases not attended with aggravating circumstances, or in any case when the magistrate, upon receipt of the charge, or in the course of his inquiry respecting it, or after he shall have passed judgment upon it, during the reference required to be made to the Foujdarry Adawlut, may judge proper to admit the defendant to bail. As resistance of process is not included in the specification of crimes declared not bailable, it is hereby declared that persons apprehended on a charge of resistance of process under this or any other regulation, and who may not be accused of any aggravating crime in addition to the resistance of process, such as is declared not bailable by Section X. of this regulation, are to be admitted to bail until a final decision shall have been passed upon the charge, provided the bail offered by them shall appear to the magistrate sufficient for securing the appearance of the persons so charged during the prescribed investigation of the case.

Magistrate how to proceed when it may appear advisable to offer a reward for the discovery and apprehension of offenders in cases of magnitude.

Discretion vested in the magistrate in such cases,

and in the Court of Foujdarry Adawlut.

In what case a report to be made for the orders of Government.

XXI. In cases of gang robbery, murder, or other heinous crime, when the magistrate shall be of opinion that the ordinary process prescribed for the apprehension of public offenders would be ineffectual, or when the offenders may not be known, if it appear advisable to the magistrate of the jurisdiction in which the crime may be committed to offer a reward for the discovery and apprehension of the offender or offenders, he shall offer such reward as shall be deemed sufficient, not exceeding in any case the sum of one hundred *Arcot* rupees for a sirdar or leader of a gang, and twenty rupees for each of the inferior offenders that may be discovered and apprehended in consequence. In any case which may appear to the magistrate to require a larger reward, he shall report the same to the Court of Foujdarry Adawlut, with his opinion of the reward that should be offered, and the Court of Foujdarry Adawlut may authorize such reward as shall appear sufficient, not exceeding the sum of five hundred *Arcot* rupees for a sirdar or leader, and one hundred rupees for each of the inferior offenders. If these rewards appear to be in any case insufficient, the Court of Foujdarry Adawlut shall report the same for the consideration and orders of Government.

Reward sanctioned under the preceding section, when payable.

See Sec. vi., Reg. I., 1818.

XXII. All specific rewards offered under the discretion of the magistrate, or which may have been duly sanctioned by the Court of Foujdarry Adawlut, or the Governor in Council under the preceding section, shall be payable on the conviction of the offender or offenders before the *Courts*

of Circuit. The *Courts of Circuit* are also hereby empowered to direct the payment of any part of the specific rewards authorized, although the persons apprehended may not be convicted of the crimes charged against them, if from proof of their notorious bad character and the whole of the evidence, there appear to be ground of presumption that the information given against the prisoners was well founded: provided farther, that it shall be competent to the *Court of Circuit* to withhold and prohibit the payment of the whole or any part of the specific rewards offered under the preceding section, although the persons informed against and apprehended may be convicted, if it should appear on the trial that any improper means have been taken by the informer with a view to the conviction of the accused, or that the latter has suffered any mal-treatment from the former, or from any person under his influence.

In what cases the *Courts of Circuit* may order payment, in whole or in part, without conviction of the persons apprehended.

In what cases the *Courts of Circuit* may, also, withhold the payment of the rewards offered under preceding section, notwithstanding the conviction of the persons apprehended.

XXIII. In cases wherein any meritorious service may have been rendered by police officers or others in the apprehension or discovery of public offenders, for whom no specific reward may be payable to the person or persons who have performed such meritorious service, the *Courts of Circuit*, on due consideration of the service rendered, the exertions made, and any expense incurred in the performance of it, are authorized to direct the payment of such remuneration as may be considered adequate, not exceeding the sum of one hundred rupees for a sirdar, and ten rupees for an accomplice. If a larger reward be deemed proper, a report of the case shall be made to the Court of Foujdarry Adawlut, who are authorized to direct the payment of any sum not exceeding five hundred rupees. If in any case it appear proper to grant a higher reward or compensation than five hundred rupees, the Court of Foujdarry Adawlut shall report the same for the consideration and orders of Government.

See Sec. x., Reg. XIII., 1832.

Authority vested in the *Courts of Circuit* to direct a remuneration for meritorious service by police officers and others in the discovery or apprehension of public offenders when no specific reward may be payable to them;

And in the Court of Foujdarry Adawlut.

In what case a report to be made to Government.

XXIV. *First.* Upon a prisoner being brought in the first instance before the magistrate charged with any crime or misdemeanour, he shall inquire into the circumstances of the charge, and examine the prisoner, and also such other persons as are stated to have any knowledge of the crime or misdemeanour alleged against the prisoner, and commit their respective depositions to writing The witnesses shall be examined *upon oath* (*or* on a solemn declaration *if of a rank or caste which would render it improper to take an oath*), but the prisoner shall not be required to swear to the truth of his deposition; after this inquiry, if it shall appear to the magistrate that the crime or misdemeanour charged against the prisoner was never committed, or that there is no evidence of his having been concerned in the committing of it, the magistrate shall cause him to be forthwith discharged, recording his reasons for releasing him, and submitting them to the *Court of Circuit* with the calendar ordered to be prepared in Section XL. of this regulation.

Prisoner to be examined, but not upon oath, and his deposition to be committed to writing.

The witnesses to the charge to be examined upon *oath* (*or* solemn declaration), and their depositions to be committed to writing.

Magistrate to discharge the prisoner if there shall not appear evidence of his guilt, recording his reasons for so doing.

Second. If, on the contrary, it shall appear to the magistrate that the crime or misdemeanour was actually committed, and that there is evidence of the prisoner's having been concerned in the perpetration of it, the magistrate shall send the prosecutor, the witnesses, and the prisoner, with the proceedings on the case, to the *criminal judge of the zillah;* but it shall not be necessary for the magistrate to go further into the examination,

See Sec. ii., Reg. III., 1827.

Magistrates to send the prosecutor, witnesses, and the prisoner to the *criminal judge*, if there shall be evidence that the crime or misdemeanour was committed.

Magistrate need go

no further into examinations than may satisfy his mind of the prisoner's guilt.

than to satisfy his own mind that there is ground to believe the prisoner guilty of the crime charged against him.

Documents to be forwarded with the prisoner to the judge.

XXV. Whenever the magistrate may forward a prisoner to the *criminal judge* under the preceding section, he shall send by the police peons in charge of the prisoner, a paper containing the name of the prisoner, the crime with which he is charged, and date of the charge, the date of his apprehension, and a list of the prosecutors and witnesses, and of all examinations and depositions that may have been taken either by himself or any police officers. The judge shall, immediately on the receipt of such paper, certify on the back of it whether or not the prisoner and documents have been received, and shall return it by the police peons to the magistrate, and no other communication shall be necessary.

See Sec. ii., Reg. III., 1817.

Prisoner's confessions or confirmations of former confessions of their guilt to be attested by the number of witnesses the Mahomedan law requires to render them valid.

The magistrate to be careful that they are free and voluntary, and to take special care that prisoners suffer no ill-treatment after apprehension to compel them to speak the truth, or for other purpose.

XXVI. When a prisoner confesses before the magistrates the crime or misdemeanour of which he may have been accused, the magistrates are to be careful to have such confession witnessed by as many creditable persons [*not being servants of the Government*] who may be present at the time it may be made, as the Mahomedan law requires to give it validity; but the magistrates are strictly enjoined to satisfy themselves that all confessions made by prisoners are free and voluntary. The magistrates are further required to take special care that persons, upon being apprehended, are not made to suffer corporal punishment, or otherwise ill-treated, under the pretence of compelling them to answer truly to questions that may be put to them, or under any other pretext whatever.

Rescinded by Sec. ii., Reg. V., 1819.

Magistrate not to admit any compromise in crimes of a heinous nature.

XXVII. No private compromise or razeenamah shall be admitted by the magistrate in crimes of a heinous nature, such as on conviction may require exemplary punishment for the ends of public justice.

Rules respecting examinations taken before the magistrate.

XXVIII. All examinations and depositions taken before the magistrate are to be written on separate papers, signed by the deponents, attested by the signature of the magistrate, and are to be taken and written in the language in which the deponents may desire to have the same recorded.

Magistrates not to receive charges of perjury.

Individuals attending in civil suits not liable to prosecution for perjury unless committed for trial by the judge.

XXIX. The magistrates of the several zillahs shall not receive any charges of perjury which may be preferred by parties in civil suits, either against their own witnesses, or against the witnesses of the adverse party, or of subornation of perjury against the adverse parties in such suits, and all individuals whose attendance is required in the Civil Courts,* either as plaintiffs, defendants, or witnesses, are hereby declared not to be liable to any prosecution of this description, unless they shall be committed to take their trial by the *zillah* judge† under the authority vested in him by Section VIII., Regulation III., 1802.

XXX. [What reports to be sent to Foujdarry Adawlut.]—*Rescinded by Section II., Regulation IX.*, 1828.

* Extended to Criminal Courts by Sec. viii., Reg. II., 1822.

† Extended to collectors and native judges (principal sudder ameens) by Cl. 3, Sec. iii., Reg. VIII., 1829.

See Act XXXIV., 1837, and Sec. xlui., Act VII., 1843.

XXXI. All Europeans not British subjects shall be amenable to the authority of the magistrates, the *criminal judges*, and *Courts of Circuit* within whose jurisdiction they may be apprehended and brought to trial, in common with the natives of the country.

Process to be observed for apprehension and trial of Europeans not British subjects.

See Sec iii., Reg. VIII., 1832

See Sec. vii., Reg. X., 1816, and Secs. liv. and lv, Act VII., 1843.

XXXII. The magistrates are empowered to hear and determine, without reference to any authority, all complaints or prosecutions brought before them for petty offences, such as abusive language, calumny, inconsiderable assaults or affrays, and to punish the offender when convicted, by committing him to prison in the zillah jail, or village choultry, as to them may seem proper, for a term not exceeding fifteen days, or by imposing a fine upon him; but the fine is in no case to exceed the sum of fifty *Arcot* rupees, unless the offender be a zemindar, independent talookdar, or other actual proprietor of land paying an annual revenue to Government of more than ten thousand *Arcot* rupees, or a proprietor of ayma land paying a quit revenue to Government exceeding five hundred *Arcot* rupees per annum, or of lakhiraj land, the annual produce of which may be above one thousand *Arcot* rupees, in which cases such offender shall be liable to a fine not exceeding two hundred *Arcot* rupees. The magistrate is to fix the amount of the fine under the limitations prescribed, upon a due consideration of the nature of the case and the situation and circumstances in life of the offender.

Misdemeanours which the magistrates are authorized to try, and the punishment which they are empowered to inflict for such offences.

See Sec. iii., Reg. VIII., 1832, and Cl. 2, Sec. viii., Reg. XIII., 1832.

See Reg. VIII., 1828.

See Secs. liv. and lv., Act VII., 1843.

XXXIII. The magistrates are authorized to hear and determine, without reference to any authority, all complaints or prosecutions brought before them for petty thefts, when they shall not have been attended with any aggravating circumstances, or committed by persons of notorious bad character, and to inflict upon the offenders corporal punishment not exceeding *eighteen rattans*, or commit them to prison in the zillah jail, or village choultry, as to them may seem proper, for a term not longer than one month, according as they may think proper upon a consideration of the circumstances of the case.

Crimes which the magistrates are also authorized to try under the restrictions herein specified, and the punishment which they are empowered to inflict for such crime.

XXXIV. *First.* In cases of a prisoner, punishable by the magistrate under the two preceding sections, being sent to the zillah jail, the magistrate shall forward with the prisoner a warrant in the Form prescribed in No. 10 of the Appendix to this regulation, addressed to the keeper of the jail, who shall conform to the tenor of the warrant.

Form of warrant referred to, to be addressed by magistrates, in certain cases, to the keeper of the zillah jail.

Second. The warrant shall be accompanied by a paper addressed to the *criminal judge*, containing the name, the crime, or offence, and the period of confinement to which the prisoner may have been sentenced. The judge shall return the paper by the police officers who may come in charge of the prisoner, with an endorsement attested by his official seal and signature, acknowledging the delivery of the prisoner.

Warrant to be accompanied by a paper addressed to the judge

The endorsement therein required.

XXXV. Where the complaints specified in Sections XXXII. and XXXIII. of this regulation shall appear to the magistrate to be litigious, vexatious, or groundless, he is authorized to punish the complainant by fine or imprisonment, under the limitations and restrictions prescribed for the punishment of the offences specified in Section XXXII.

Punishment to be inflicted on the complainants, in the cases herein specified, whose complaints are proved to be litigious, vexatious, or groundless.

In what cases bail for personal appearance shall not be required in the first instance, but may be required at any time during the investigation.

How an officer entrusted with the serving of a summons is to proceed.

In what cases the officer serving the summons shall be entrusted to receive a razeenamah if acquiesced in by the defendant, as a sufficient return to the process entrusted to him.

Provided that, except in the trivial cases noticed, no razeenamah shall be received without the sanction of the magistrate.

XXXVI. In cases of a trivial nature, such as abusive language, slight trespasses, and inconsiderable assaults or affrays, in which there may be no reason to apprehend that the party complained against will abscond, bail for appearance shall not be required in the first instance, but may at any time during the investigation of the charge be called for by the magistrate, if any circumstances should occur to render it necessary. The officer entrusted with the service of the summons in such cases, as well as in all other cases wherein bail may not be required, shall demand only an acknowledgment of the receipt of it, and in the absence of the party, the summons may be served on the principal person in his house or family, if such person be willing to receive the same, and to return an acknowledgment for the party. The officer serving the summons in such instances shall be authorized, on the tender of a razeenamah expressing the plaintiff's desire to withdraw his complaint, and the defendant's acquiescence in the complaint's being withdrawn, to receive such razeenamah as a sufficient return to the process committed to him; but excepting in the trivial cases noticed in this section, no razeenamah shall be received without the special sanction of the magistrate.

XXXVII. [Magistrates not required to record depositions in certain cases specified in Section XXXII.]—*Rescinded by Clause* 1, *Section VII.*, *Regulation IV.*, 1821. *See Regulation VIII.*, 1832.

Magistrates to pay the customary diet-money to prisoners.

XXXVIII. The magistrates are to pay the customary daily subsistence-money to all prisoners, from the time of their apprehension to the date of their discharge or delivery to the *criminal judge.*

No fines to be imposed by magistrates but to the use of Government, with a definite period of imprisonment to be held as equivalent to the fines imposed.

Imprisonment not to exceed periods herein specified.

XXXIX. *First.* No fines, except in the cases specified in the second clause of this section, shall be imposed by a magistrate, save and except to the use of Government; and whenever a fine to the use of Government shall be imposed, the magistrate who may pass the sentence shall, at the same time, weighing all the circumstances of the case, fix a definite period of imprisonment to be held as equivalent to the fine, at the expiration of which, the persons convicted shall be discharged, if they have not previously paid the fine. In cases in which the magistrate shall impose fines, the imprisonment to be fixed by them, as equivalent to the fines, shall not exceed the periods specified in Sections XXXII. and XXXIII. of this regulation.

See Act II, 1839, sed quære.

Application of fine when levied in cases of injury to complainants.

Second. In case of injury to any complainant when the fine may have been levied, it shall be lawful for the magistrate to award the whole or any portion of such fine to the party aggrieved, by way of satisfaction for such injury, as he may deem equitable.

Extended to session judges by Act XXX, 1845.

Magistrates to submit two calendars to the *Courts of Circuit.*

What to contain.

XL. *First.* The magistrates shall cause to be delivered to the *Courts of Circuit, upon their arrival at the places of residence of the criminal judges of their respective zillahs, a calendar,* [*in the Form prescribed in No.* 11 *of the Appendix to this regulation,*] containing a list of all persons whom they may have apprehended for crimes or misdemeanours, and discharged for want of sufficient evidence; as also a calendar, [*in the Form prescribed in No.* 12 *of the Appendix to this regulation,*] containing a list of all punishments which they may have ordered on petty offences or petty

See Cl. 4, Sec. xiv., Reg VIII., 1827.

Rescinded by Sec. ii., Reg IX., 1828

See Sec. iii., Reg. VIII., 1832.

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thefts, [*with the exception of those cases which are not required to be made matter of record under Section XXXVII. of this regulation.*]

Second. These calendars are to be accompanied with all the original proceedings in each case, and if the *Court of Circuit* shall be of opinion that any of the persons mentioned in the first calendar have been discharged, or the persons specified in the second calendar punished upon insufficient grounds, they are to transmit to the magistrate such written orders on the case as may appear to them proper, to which he shall conform.

What papers and proceedings are to accompany these calendars.

Directions to the *circuit* judge in certain cases.

Third. The *Courts of Circuit* are to report to the Foujdarry Adawlut, for the information and orders of Government, whenever the magistrates omit or refuse to obey their orders, as also whenever it shall appear to them that the magistrates have been guilty of neglect or misconduct in the discharge of their duty.

Court of Circuit to report instances of neglect or misconduct on the part of magistrates in the discharge of their duty.

See Cls. 3 and 4, Sec. xiv., Reg. VIII., 1827.

XLI. Every summons or other criminal process shall be served by a peon or other police officer receiving wages from Government, and no diet-money or other allowance or gratuity shall be demanded or received from the complainant or accused, whether the case be adjusted by razeenamah or otherwise, and the demand or receipt of such by any public officers, directly or indirectly, in violation of this rule, shall be punishable as a criminal offence on conviction before the magistrate, the *criminal judge* of the zillah, or *Court of Circuit;* the offender shall also be compellable, either by a criminal prosecution or by a civil action, to refund the amount received, besides being liable to immediate dismission from office under the provisions contained in the existing regulations.

Public officers in the pay of Government charged with the serving of process prohibited from demanding or receiving diet-money from the parties.

XLII. Magistrates are hereby empowered to remove police officers from one station to another within their respective jurisdictions, without reference to any authority.

Magistrates empowered to remove police officers from one station to another at discretion.

XLIII. The zillah magistrates and their assistants are hereby declared amenable to the *Zillah* Court in the jurisdiction of which they may reside or carry on the public business committed to their charge, by a civil prosecution, for any act or acts done in their official capacity in opposition to any established regulation.

Magistrates and their assistants amenable to the *Zillah* Court for acts done in their official capacity.

XLIV., XLV. [Parts of certain fiscal regulations, all of which are rescinded or superseded, declared applicable to criminal judges and magistrates.]—*Superseded.*

XLVI. [This regulation declared inapplicable to Seringapatam.]—*Rescinded by Section II., Regulation IX.*, 1827.

See Act XVI., 1841.

XLVII. The magistrates of the several zillahs who have not already taken the prescribed oath of qualification to act as justices of the peace of their respective districts are hereby required to do so within three months from this date; and all persons hereafter appointed to the station of zillah magistrate are hereby required to take the said oath within three months from the date of their appointment.

Zillah magistrates to take the prescribed oath as justices of the peace.

APPENDIX.

No. 1.

Form of Oath to be administered to the Magistrate.

I, A. B., appointed magistrate of the zillah of , solemnly swear that I will, to the best of my ability, preserve the peace of the zillah over which my authority extends; that I will act with impartiality and integrity, and will not exact or receive, nor knowingly allow any other person to exact or receive, directly or indirectly, any fee, reward, or emolument whatsoever, in the execution of, or on account of any matter relating to, the duties of my office, excepting such as the orders of the Governor in Council do or may expressly authorize; and that I will perform the duties of my office according to the best of my knowledge, abilities, and judgment, conformably to the regulations that have been or may be passed by the Governor in Council.

SO HELP ME GOD.

No. 2.

Form of Oath to be administered to the Assistants to the Magistrates.

I, A. B., assistant to the magistrate of the zillah of solemnly swear that I will, to the best of my ability, assist the said magistrate in preserving the peace of the zillah over which his authority extends; that I will act with impartiality and integrity, and will not exact or receive, nor knowingly allow any other person to exact or receive, directly or indirectly, any fee, emolument, or reward whatsoever, in the execution of any matter relating to the duties of my office, excepting such as the orders of the Governor in Council do or may expressly authorize; and that I will perform the duties of my office according to the best of my knowledge, abilities, and judgment, conformably to the regulations that have been or may be passed by the Governor in Council.

SO HELP ME GOD.

No. 3.

Form of Warrant for Apprehension.

To

Whereas , inhabitant of stands charged on the *oath* (*or* solemn declaration) of , inhabitant of , with the crime of , you are hereby directed to apprehend the said and produce him before the magistrate of the said zillah. In this fail not. Dated the day of , A. C., corresponding with

No. 4.

Form of Warrant requiring Bail or Security.

Whereas , inhabitant of , stands charged on the *oath* (*or* solemn declaration) of , inhabitant of , with the crime of , you are hereby directed to apprehend the said and to require bail in the sum of Rupees for his appearance before the magistrate of the said zillah on or before the ; you are farther required to take security from the said . , for keeping the peace, in the sum of Rupees ; if the said shall not give the bail (and security) above stated, you are directed to bring him before the magistrate of the said zillah. Herein fail not. Dated this day of , A. C., coresponding with

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No. 5.

Form of Bail Bond for appearance before the Magistrate.

Whereas , inhabitant of , stands charged with , and is required to appear before the magistrate of the zillah of , on or before the , to answer to such charge, I hereby bind myself to produce the said before the said magistrate, on the date aforesaid, and to be answerable for his appearance until a final order be passed by the magistrate upon the said charge. In default whereof, I further bind myself to forfeit to Government the sum of Rupees . In this I will not fail. Dated this day of , A. C., corresponding with

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No. 6.

Form of Security Bond for keeping the Peace.

Whereas , inhabitant of , stands charged with , and has been called upon to give security to keep the peace whilst such charge is under investigation, I hereby declare myself surety for the said , that he shall not commit any act that can occasion a breach of the peace whilst the said charge is under examination. In default whereof, I further hereby bind myself to forfeit to Government the sum of Rupees Dated this

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No. 7.

Form of Summons.

To , inhabitant of

Whereas a complaint has been preferred on *oath* (*or* solemn declaration) by , inhabitant of , charging you with the crime of , you are hereby required to appear (in person

or by vakeel) before the magistrate of the zillah of , on or before the day of to answer to the said charge. Herein fail not. Dated the day of A. C., corresponding with

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No. 8.

Form of Summons when Bail is required.

To , inhabitant of .

Whereas a complaint has been preferred on *oath* (*or* solemn declaration) by , inhabitant of , charging you with , you are hereby required to appear (in person or by vakeel) before the magistrate of the zillah of , on or before the , to answer to the said charge; you are further required to give bail in Rupees for your appearance (in person or by vakeel) on the day aforesaid. Herein fail not. Dated the day of , A. C., corresponding with

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No. 9.

[*Form of an Abstract Statement of Robberies and other Heinous Crimes.*]

Rescinded by Section II., Regulation IX., 1828.

No. 10.

Form of Warrant of Commitment.

To the keeper of the jail at .

Whereas A. B., having been convicted of (here specify the offence), was sentenced by me, under this date, to be imprisoned for and during the space of days from the date hereof: Now you are hereby required to receive the said A. B. into your custody in the said jail, and there safely to keep him, the said A. B., until the expiration of the said days from the date hereof, and then to release him.

Given under my hand and seal at , in the zillah of in the year of our Lord 18

Nos. 11 and 12.

[*Forms of Calendars of Persons Discharged and Punished.*]

Rescinded by Regulation IX., 1828.

A.D. 1816. REGULATION X.

A REGULATION* *for constituting the Judges of the Courts of Adawlut of the several Zillahs Criminal Judges of their respective Zillahs, and for defining their Powers:* PASSED *by the Right Honourable the Governor in Council of Fort St. George, on the* 13*th of September,* 1816, *corresponding with the* 31*st Avani of the year Dhatu,* 1738*th year of Saliwahana, and with the* 20*th Shawal,* 1231 *Hijra.*

WHEREAS it appears expedient, in order to facilitate the administration of criminal justice, to constitute the judges of the Courts of Adawlut of the several zillahs criminal judges of their respective zillahs, and to prescribe rules for their guidance in bringing to trial persons charged with crimes and offences, the following rules have been enacted. Preamble.

See Regs. II. and VIII., 1827. *Judges of the Zillah Courts to be criminal judges in their respective jurisdictions.*

II. *The judges of the Courts of Adawlut of the several zillahs shall hold the office of criminal judge of the zillah under their respective jurisdictions;* previous to entering upon the execution of the duties of the office, they shall take and subscribe an oath according to the form prescribed in No. 1 of the Appendix to this regulation, before the Governor in Council, or any person whom he may commission to administer it.

See Act XXI., 1837.

III., IV., V. [Zillah registers to be assistants to criminal judges; their duties.]—*Superseded; the office of zillah register having ceased to exist.*

See Sec. i., Act VII., 1843. Special jurisdiction of the *criminal judges* of the several zillahs. Exception.

VI. The special jurisdiction of the *criminal judges* of the several zillahs is to extend throughout the districts included in the zillahs in which they are respectively stationed; provided, however, that the *criminal judges* be not considered to have any jurisdiction or authority whatever in the town of Madraspatnam, or any places adjacent, within the limits of the jurisdiction of the Supreme Court of Judicature at Madras.

See Secs. iii. and iv., Act VII., 1843. *Criminal judges* empowered, in certain cases, to pass sentence of imprisonment with corporal punishment;

VII. The *criminal judges* are hereby empowered in all cases of conviction before them of a criminal offence, punishable under the Mahomedan law and the regulations, for which the penalties authorized by Sections XXXII. and XXXIII., Regulation IX., 1816, may appear insufficient, or to which the rules referred to may not be expressly applicable, and for which a more severe punishment than six months' imprisonment with *thirty rattans*, or a fine of two hundred rupees, may not have been especially prescribed (in which case the prisoner, if there appear grounds for it, must be brought to trial before the *Court of Circuit*), to pass

See Reg. VIII., 1828. and fine, under the limitations herein specified.

* The duties of Criminal Judge of the zillah are now discharged by the Subordinate Judge and Principal Sudder Ameen, to whom the provisions of this regulation were specially declared applicable by Sec. ii., Reg. II., 1827, and Sec. ii., Reg. VIII., 1827.

It is provided by Sec. iii., Reg. III., 1817, that in cases requiring the immediate interference of a Magistrate, if no Magistrate be present, the Criminal Judge may do all necessary acts.

It is further declared, by Sec. ii., Reg. III., 1817, that nothing in this regulation is intended to prohibit free intercourse in official duties between the Magistrates and Criminal Judges.

sentence of imprisonment not exceeding six months, with corporal punishment not exceeding *thirty rattans* in cases of theft, or in other cases with a fine not exceeding two hundred rupees, commutable, if not paid, to a further period of imprisonment not exceeding six months, so that the entire period of imprisonment under the sentence of a *criminal judge* shall in no instance exceed one year.

See Sec. xlvi, Act VII., 1843. Powers extended in certain cases by Cl. 6, Sec ii and Sec iii., Reg VI., 1822.

Criminal judges competent only to take cognizance of criminal charges brought before them by magistrates or their police officers. Proviso

VIII. The *criminal judge* of the zillah shall not receive or take cognizance of any criminal charge or information, except such as may be brought before him by a magistrate or some police officer under his authority; provided, however, that this restriction shall not be considered as applicable to cases in which an European British subject shall be a party.

Modified by Cl. 2, Sec ii, and Cl. i., Sec iii, Reg VIII, 1829, and Sec. xi, Reg XIII, 1832

Prisoner to be examined, but not upon oath, and his deposition to be committed to writing

Prosecutor and his witnesses to be examined *upon oath* or on a solemn declaration, and their depositions to be committed to writing

Judge to discharge the prisoner if there shall not appear to him sufficient ground for commitment, recording his reasons for so doing

IX. *First.* Upon a prisoner being brought before the *criminal judge*, he shall inquire into the circumstances of the charge, and examine the prisoner and the complainant, and also such other persons as are stated to have any knowledge of the crime or misdemeanour alleged against the prisoner, and commit their respective depositions to writing. The complainant and the witnesses shall be examined *upon oath* (*or* on a solemn declaration, *if the rank or caste of the deponent render it improper to require an oath*), but the prisoner shall not be required to swear to the truth of his deposition; after this inquiry, if it shall appear to the judge that the crime or misdemeanour charged against the prisoner was never committed, or that there is no evidence of his having been concerned in the committing of it, the judge shall cause him to be forthwith discharged, recording his reasons for releasing him, and submitting them to the *Court of Circuit*, with the calendar ordered to be prepared in Section XXIII. of this regulation.

Modified by Sec xxix, Act VII, 1843

See Act V, 1840

Judge to punish the prisoner if the crime be committed and punishable by fine

Second. If on the contrary it shall appear to the judge that the crime or misdemeanour was actually committed by the prisoner, and if it shall be punishable by the judge under Section VII. of this regulation, he shall adjudge such punishment as he may deem proper.

Judge to commit the prisoner, or to hold him to bail, if there shall appear to him sufficient ground for so doing

Third. If the crime or misdemeanour be not punishable by the *judge*, and if it shall appear that it was actually committed, and that there is evidence of the prisoner having been concerned in the perpetration of it, the judge shall commit him to prison or hold him to bail (according as the offence may be bailable or not), to take his trial at *the next session of the Court of Circuit*, and shall bind over the complainant to appear and carry on the prosecution, and the witnesses to attend and give their evidence.

Modified by Sec. xxix, Act VII, 1843.

All bail-bonds and recognizances to be for specific sums, to be forfeited upon non-performance of the conditions: rule for determining the amount of such sums.

Fourth. All bail-bonds for prisoners released upon bail, and the recognizances required to be taken from prosecutors and witnesses, shall be for a specific sum, the amount of which shall be determined by the judge upon a due consideration of the case, and the circumstances and situation in life of the parties, and shall contain a clause declaring the amount forfeited to Government in the event of the condition of it not being performed.

Points to be attended to by the judges in their inquiries into charges before them

X. The *criminal judges* are to be careful to ascertain from the complainant, and to record upon their proceedings, on what day of the month, in what year, and at what time of the day or night, the act complained of was committed; when a prisoner confesses before them the crime or mis-

See Cl 1, Sec ii, Reg. II, 1822

demeanour with which he may have been accused, or confirms any former confession that he may have made of his having committed such crime or misdemeanour, the judges are to be careful, in cases referrible to the *Court of Circuit*, to have such confession or confirmation of a former confession witnessed by as many creditable persons [*not being servants of the Government*] who may be present at the time it may be made, as the Mahomedan law requires to give it validity, and to cause such witnesses to be in attendance at the *next sessions of the Court of Circuit*. All confessions made by prisoners shall be free and voluntary; and notwithstanding such confessions, the judges are invariably to summon, and bind over to attend at the *next sessions*, the witnesses to the commission of the crime or misdemeanour alleged against the prisoner, that they may be examined before the *Court of Circuit* in the same manner as if the prisoner had denied the charge.

Rescinded by Sec ii., Reg V, 1819

See Sec vii, Reg VI, 1827

XI. In all cases of trial before the *Court of Circuit*, if the admission of bail have not been prohibited by the regulations, and the bail tendered shall appear sufficient for securing the appearance of the party accused, he shall be admitted to bail until sentence be passed upon the charge against him; moreover, in special instances wherein the *Court of Circuit*, on report from the *criminal judge*, or on other satisfactory information before them, may deem it just and proper to admit to bail a person charged with an offence not bailable under the general provisions contained in the regulations, that court is declared competent to instruct the judge to accept sufficient bail, instead of keeping the accused in confinement whilst the charge against him is under trial. The *Court of Circuit* may likewise in all bailable cases, wherein the bail required by the judge shall appear excessive, direct the judge to receive such bail as may be deemed sufficient to answer the purpose intended by it.

Bail, if sufficient to secure attendance, may be admitted in all cases not prohibited by the regulations

Courts of Circuit in certain cases may direct the judge to admit to bail persons accused of offences not bailable under the regulations,

And may direct judges, wherein excessive bail may have been required by them, to receive such bail as may by the *Court of Circuit* be deemed sufficient

XII. The bail to be taken under the preceding section, as well as in all cases of persons being held to bail for trial before the *Courts of Circuit*, shall be according to the Form prescribed in No. 3 of the Appendix to this regulation.

Form of bail-bond for persons to be tried before the *Court of Circuit*.

XIII. In all cases of a prisoner being committed or held to bail for trial before any *Court of Circuit*, the *criminal judge* who may order him to be so committed or held to bail shall, immediately after passing such order, question the prisoner whether he wishes to have any witness or witnesses examined in his defence before the *Court of Circuit*, and in the event of his answering in the affirmative, shall cause a list of the witnesses named by the prisoner, specifying their designations and places of abode, to be taken down and recorded upon his proceedings; or in the event of the prisoner's replying in the negative, shall cause his reply to that effect to be recorded on his proceedings for the information of the *Court of Circuit*.

Prisoner to be questioned at the time of his being committed or held to bail, and his answer recorded on the judge's proceeding, with specification of any witnesses named by him

Modified by Cl 2, Sec ii, Reg II, 1822

Modified by Cls 2 and 3, Sec ii, Reg II, 1822

XIV. In the event of any person, whether committed or held to bail for trial before the *Court of Circuit*, *at any time before the session of that court*, desiring the examination of any witness or witnesses upon his trial, although the same may not have been named by him at the time of his being committed or held to bail, the *criminal judges* are to be careful

Any witnesses named before the *arrival of the Court of Circuit* to be summoned to attend the trial before *that court*

to cause the attendance of such witnesses, as well as of those before named, at the time fixed for the trial of the party who may desire their examination.

Rules respecting examinations taken before the judge.

XV. All examinations taken before the *criminal judge* are to be written on separate papers, signed by the deponents, attested by the signature of the judge, and arranged according to their respective dates.

Depositions to be taken and written in the language in which the deponents may desire: papers to be accompanied by a Persian translate in cases of commitment only.

XVI. All examinations and depositions are to be taken and written in the language in which the deponents may desire to have the same recorded, and the *criminal judges* shall in all cases of commitment, and in such cases only, accompany all papers written in the native languages with a translation in the Persian language, which translation is to be compared with the original by the officers of the *Court of Circuit.*

XVII. [Criminal judge to make proclamation for the attendance of prosecutor and witnesses on the day fixed for the arrival of the Court of Circuit.]—*Superseded by the abolition of the Court of Circuit. See Sections XXVI. and XXVII., Act VII.*, 1843.

XVIII. [Criminal judge to ascertain from the accused, before the arrival of the Court of Circuit, what witnesses he may require.]

XIX. [The calendar is to be presented to the Court of Circuit on its arrival.]

Superseded by Sections XXIX. and XXX., Act VII., 1843.

Documents which are to accompany the calendar.

XX. The calendar is to be accompanied with the *criminal judge's* proceedings on each charge, which shall contain the following vouchers, or as many of them as, from the nature and circumstances of the case, may be requisite and procurable, with such other papers and documents as the judge may have in his possession or judge necessary to be obtained for the information of the *Court of Circuit.*

1st. An attested copy of the complaint or charge.

2nd. An attested copy of the plaintiff's *oath* to the truth of the charge, in which is to be inserted, in cases of robbery and theft, the inventory of the money or property stolen or plundered, with the amount or computed value of it.

3rd. The name or names of the person or persons apprehended.

4th. The examination of the person or persons apprehended.

5th. The further examination of the prosecutor on *oath*, in cases where any such examination may have been taken.

6th. A list of the witnesses summoned by the desire of the prosecutor, particularizing the names of such as may be in attendance and those who are absent, with the cause of the non-attendance of the latter.

7th. The depositions of the witnesses who may have been in attendance.

8th. The names of the witnesses who may have been summoned at the requisition of the prisoner, specifying those who are in attendance, and such as are absent, and the cause of the non-attendance of the latter.

Further documents to be produced if required.

XXI. The following documents shall also be delivered if required by the judges of the *Courts of Circuit.*

1st. The prosecutor's recognizance to appear and prosecute to the charge.

2nd. The recognizances of the prosecutor's witnesses.

3rd. A copy of the magistrate's warrant or summons for the apprehension or appearance of the offender.

4th. A copy of such examinations as may have been taken by the magistrate, or by any police officer under him.

Magistrates to furnish the *Courts of Circuit* with the original returns of the nazir respecting summonses to witnesses not in attendance: both nazir and person deputed to attend the *Court of Circuit.*

XXII. The list of witnesses shall further be accompanied with the original returns made to the *criminal judge* by the nazir, and person deputed on his part to serve the summons on any witness who may not be in attendance, and the nazir, and person so deputed on his part, shall be kept in attendance on the *Court of Circuit* to answer any interrogatories which *that court* may have occasion to put to him, to the end that the *Court of Circuit* may be enabled to ascertain the real cause of the non-attendance of any witness by their own inquiry, and to evince to the Court of Foujdarry Adawlut in cases referrible to that court, that all due measures have been taken to insure the attendance of the witnesses, both on the part of the prosecutor and the prisoner.

Two further calendars herein specified to be submitted by the judges to the *Courts of Circuit.*

XXIII. The *criminal judges* are to lay before the *Courts of Circuit, upon their arrival at their respective places of residence,* two separate calendars, the first containing a list of all persons whom they may have discharged for want of sufficient evidence to warrant the committing them to prison or holding them to bail, to take their trial for the crime or misdemeanour charged against them, and accompanied with their reasons for having released them, as prescribed in Section IX. of this regulation. The second comprising a list of the persons whom they may have punished for crimes or misdemeanours cognizable by them, the crime or misdemeanour with which the prisoners may have been charged, and the sentence passed upon them; these calendars [*shall be in the Form prescribed in Nos.* 11 *and* 12 *of the Appendix to Regulation IX.*, 1816, *and*] are to be accompanied with all the original papers and proceedings in each case; and if the *Court of Circuit* shall be of opinion that any of the persons mentioned in the first calendar have been discharged, or the persons specified in the second calendar punished, upon insufficient grounds, the judges of *those courts* are hereby authorized, whenever any case so brought before them may appear not to have been sufficiently investigated, and a further inquiry may be practicable and requisite for the ends of justice, to direct such additional inquiry to be made by the *criminal judge,* and the result to be communicated to the *judges of the Court of Circuit collectively* for *their* orders on the case.

Rescinded by Sec. II, Reg. IX, 1828.

What papers and proceedings are to accompany these calendars

The *judges of circuit* are authorized, whenever any case may appear not to have been sufficiently investigated, to direct a further inquiry to be made by the judge, and the result to be communicated to the *Court of Circuit* collectively for their orders.

Declared applicable to session judges by Sec xxxvii, Act VII, 1843.

XXIV. *Two or more judges of a Court of Circuit forming a court at the sudder station* are hereby declared competent, on all occasions when it may appear necessary upon petitions presented to them relative to the proceedings of any *criminal judge,* [*or of an assistant to a judge,*] within their jurisdiction, to call upon the judge for his proceedings, [*or those of his assistant,*] on the case, and to pass such orders thereupon as they may deem proper and consistent with the regulations.

Two or more judges of a *Court of Circuit* competent to call for the proceedings of a *criminal judge or his assistant,* on occasion of petitions being presented to them relative to such proceedings, and to pass such orders thereupon as may be proper.

The Foujdarry Adawlut competent to call for the proceedings of the *Courts of Circuit* and of the *criminal judges*, whenever requisite, and to pass such orders upon them as may appear proper

XXV. In like manner the Court of Foujdarry Adawlut are declared competent to call for the proceedings of any *Court of Circuit*, or of any *criminal judge* [*or assistant to a judge*,] whenever it may appear requisite, and to pass such orders thereupon as *that court* may deem just and proper.

Judge to notify the commitment of proprietors of land to the collector of the zillah.

XXVI. If the *criminal judge* shall commit any zemindar, independent talookdar, or other actual proprietor of land, to be tried before the *Court of Circuit*, he is to notify the commitment to the collector of the zillah, that, if necessary, he may take measures to prevent any delay in the payment of the public revenue assessed upon the lands of the offender.

XXVII. [Criminal judge to have charge of zillah jail.]—*Superseded by Sections XLVIII. and XLIX., Act VII.*, 1843.

Judges, how often to visit the jail, to redress all well-founded complaints, to attend to the health and cleanliness of the prisoners

XXVIII. The *criminal judge* shall visit the jail at least once in every month, and redress all well-founded complaints of ill-treatment which may be preferred to him by the prisoners against the jailer, or any officer having charge of them; he is to be particularly attentive to the health and cleanliness of the prisoners, and to see that the surgeon of the station attends and administers to the sick.

See Sec vii., Reg. X., 1832, and Sec xlix Act VII, 1843

Description of prisoners ordered to be confined in separate apartments.

XXIX. Separate apartments in the jail shall be allotted for the following descriptions of prisoners.

1st. Prisoners under sentence of death.

2nd. Prisoners sentenced to confinement by a *criminal judge*, by the *Court of Circuit*, or the Foujdarry Adawlut.

3rd. Prisoners committed to take their trial before the *Court of Circuit*.

4th. Prisoners sentenced to confinement by the magistrate for petty crimes or misdemeanours cognizable by him.

Further descriptions of prisoners to be confined in separate apartments.

Female to be kept separate from male prisoners in all cases

And as the crimes proved or alleged against the second and third descriptions of prisoners must be of different degrees of atrocity, the *criminal judges* are required to separate those who have been found guilty or accused of heinous crimes, from such as have been convicted of, or charged with, crimes of less magnitude. They are likewise to separate the male from the female prisoners, so as to prevent their having any communication with each other, and the rules prescribed in this section for keeping apart the several descriptions of the former are to be considered applicable also to the latter. The judges are further enjoined to endeavour to prevent drunkenness, gaming, and other immoralities being practised in the jails.

Charges, and the orders passed upon them by the judge, to be recorded in the English and language of the district.

XXX. All complaints or charges, with the orders upon them, are to be recorded in the office of the *criminal judge*, in the English and language of the district in which the court may be held.

Judges to pay the customary diet-money to prisoners.

XXXI. The *criminal judges* are to pay the customary daily subsistence-money to all prisoners from the time of their being delivered over to them to the date of their discharge.

The judges are to pay to persons released after a confinement of

XXXII. The *criminal judges* are to pay to all persons who may be released from jail after an imprisonment of six months or upwards, cal-

culating from the date of their sentences, and who shall appear to be in actual need of such assistance, a sum sufficient to maintain them for one month. The sum to be so paid to each individual is to be regulated by his situation in life, but it is in no case to exceed five *Arcot* rupees, and in every instance is to be confined as much within that amount as may be consistent with the purpose for which the allowance is granted.

six months or upwards a sum sufficient for a month's subsistence, if they stand in need of it, but it is in no case to exceed five rupees.

XXXIII. The *criminal judges* are to pay to all prosecutors and witnesses, who may appear to be actually in need of such assistance, a daily allowance of two annas of a rupee each during their attendance on the *Court of Circuit*, and the same allowance for as many days as, in their opinion, may be sufficient for such prosecutors and witnesses to come from and return to their respective homes.

Judges to pay to prosecutors and witnesses two annas per day each, if they stand in need of it, during their attendance on the *Court of Circuit*.

XXXIV. The provisions of Section XXXIX., Regulation IX., 1816, respecting the imposition and disposal of fines by the magistrate, are hereby declared equally applicable to the office of *criminal judge*.

Amount of fines imposed, how to be disposed of.

XXXV. to XXXVII. [What reports to be sent to the Foujdarry Adawlut.]—*Rescinded by Section II., Regulation IX.*, 1828.

XXXVIII. [Parts of certain fiscal regulations, all of which are rescinded or superseded, declared applicable to the criminal judge.]—*Superseded.*

XXXIX. Such parts of Section XXIII., Regulation II., 1802; *Section XI.*, Clause Sixth, Section XVIII., Sections *XXVIII.*, XXX., XXXII., and XLI., Regulation VII., 1802; Sections XIII., XVIII., and XXIV., Regulation VIII., 1802; Clause Sixth, Section II., Clause Fourth, Section VIII., and Section XI., Regulation XV., 1803; *and Section III., Regulation VI.*, 1808, as refer to the magistrate, are hereby declared to be applicable to the *criminal judge* only.

The provisions of certain sections made applicable to the *criminal judge*.

See Act XVI., 1841.

XL.* The *criminal judges* of the several zillahs who have not already taken the prescribed oath of qualification to act as justices of the peace of their respective districts, are required to do so within three months from this date, and all persons hereafter appointed to the station of *criminal judge* are required to take the said oath within three months from the date of their appointment.

Criminal judges to take the prescribed oath as justices of the peace.

APPENDIX.

No. 1.

Form of Oath to be administered to the Criminal Judges.

I, A. B., appointed *criminal judge* of the zillah of solemnly swear that I will act with impartiality and integrity, and will not

* This section applies only to the Subordinate Judge, not to the Principal Sudder Ameen. See Sec. iv., Reg. VIII., 1827, and Sec. xliii., Act VII., 1843.

exact or receive, nor knowingly allow any other person to exact or receive, directly or indirectly, any fee, reward, or emolument whatsoever, in the execution of, or on account of any matter relating to, the duties of my office, excepting such as the orders of the Governor in Council do or may expressly authorize; and that I will perform the duties of my office according to the best of my knowledge, abilities, and judgment, conformably to the regulations that have been or may be passed by the Governor in Council.

SO HELP ME GOD.

No. 2.

[*Form of Oath to be administered to the Assistants to the Criminal Judges.*]

Superseded, the office having ceased to exist. See Section III. of this Regulation.

No. 3.

Form of Bail-Bond.

Whereas , inhabitant of , stands charged with , and has been admitted to bail by the *criminal judge* of , on condition of his appearance to stand his trial on the said charge before the *Court of Circuit for the division of* , I hereby bind myself to produce the said before the said *Court of Circuit, at their next session* for the zillah of , on the date whereupon his appearance may be required, either by a general proclamation or by a special notice from the judge, and to be answerable for his appearance before the *Court of Circuit* until a final sentence be passed upon the said charge, in default whereof I further bind myself to forfeit to Government the sum of Rupees In this I will not fail. Dated

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Nos. 4 to 12.

[*Forms of Calendars and Reports.*]

Rescinded by Section II., Regulation IX., 1828.

A.D. 1816. REGULATION XI.

A REGULATION *for the establishment of a general System of Police throughout the Territories subject to the Government of Fort St. George:* PASSED *by the Right Honourable the Governor in Council of Fort St. George, on the* 13*th of September*, 1816, *corresponding with the* 31*st Arani of the year Dhatu*, 1738*th year of Saliwahana, and with the* 20*th Shawal*, 1231 *Hijra.*

Preamble

IT being expedient that a system of police, founded chiefly upon the ancient usages of the country, should be established throughout the territories subject to the Government of Fort St. George, and that the powers and authorities of the several classes of persons to be entrusted with the performance of police duties should be defined, the Right Honourable the Governor in Council has been pleased to enact the following rules.

Regulations rescinded.

II. Regulation XXXV., 1802, and Section XII., Regulation IV., 1808, are hereby rescinded.

Present establishment of police darogahs and tanahdars abolished

III.* The present establishments of police darogahs and tanahdars shall from the first day of November, 1816, be abolished, and the duties heretofore discharged by those persons shall be performed by persons of the descriptions hereinafter mentioned.

The persons by whom police duties are hereafter to be discharged.

1. Heads of villages, as described in Section III., Regulation IV., 1816, aided by kurnums or village registers, and tallyars and other village watchers.

2. Tahsildars or native collectors of districts, by whatever name designated, with the assistance of peshkars, gomashtas, and establishments of peons.

3. Zemindars.

4. Ameens of police.

5. Cutwals and their peons.

6. Magistrates of zillahs and their assistants.

Heads of villages to be heads of police in their villages

IV. Heads of villages shall be ex-officio heads of the police of their respective villages.

Heads of villages to apprehend offenders and forward them to the police officer of the district

Exception

V. *First.* Heads of villages are authorized and directed to apprehend all persons charged with committing crimes or offences, or breaches of the peace; and all persons accused of injuring the public buildings, roads, tanks, and water-channels; and except in the trivial cases wherein they are authorized by Section X. of this regulation to inflict punishment, they shall forward the persons whom they may apprehend, together with the accusers and witnesses, to the police officer of the district.

Heads of villages not to receive confessions

Nor to detain any

Second. Heads of villages shall not receive from any person whom they may apprehend any confession, either verbally or in writing, except in the trivial cases referred to in the preceding clause; nor shall they, on any

* Sub-collectors were constituted Joint Magistrates by Sec. v., Reg II, 1827.

The powers of preliminary inquiry may be vested by Magistrates in subordinate officers. See Sec iii, Reg. IV., 1821.

person in their custody longer than twenty-four hours.

account, except the accused person be in such a state as to render his removal improper, detain any person in their custody longer than twenty-four hours.

Heads of villages authorized to call upon the inhabitants generally for assistance.

Proviso.

VI. In cases of emergency, the head of the village is authorized to call upon the inhabitants generally to assist him in securing offenders, and all the inhabitants of the village are hereby required to co-operate with him on such occasions, provided that no person who is prohibited by the rules of his caste or profession from performing such service shall be compelled so to do.

Heads of villages authorized to call on the heads of neighbouring villages for assistance.

VII. If heads of villages shall be unable, with the persons at their command, and the people of their own villages, to apprehend the parties accused, they shall have authority to call on the heads of neighbouring villages for assistance, and all heads of villages are hereby required to afford the most prompt assistance whenever they may be called upon by their neighbours so to do.

Heads of villages to communicate to each other information on subjects connected with the peace of their respective villages.

VIII. Heads of villages shall reciprocally communicate any information which they may receive of offences committed, or of gangs of robbers, or of suspicious persons having entered or taken refuge in each other's villages, and shall co-operate in all things for the apprehension of offenders and the general security of the country.

Heads of villages to report to the police officer of the district the arrival of suspicious persons in their respective villages

IX. Heads of villages shall report to the police officer of the district the arrival in their villages of strangers of suspicious appearance, and all information which they may be able to collect concerning such persons.

Heads of villages authorized to inflict punishment in certain cases.

See Sec vi Reg. IV., 1821

X. *First.* In cases of a trivial nature, such as abusive language and inconsiderable assaults or affrays, heads of villages shall have authority, on a verbal examination, either to dismiss the parties, or if the offence charged shall be proved to have been committed by the persons accused of it and shall appear deserving of punishment, to confine the offending parties in the village choultry for a time not exceeding twelve hours; or if the offending parties shall be of any of the lower castes of the people, on whom it may not be improper to inflict so degrading a punishment, to order them to be put in the stocks for a time not exceeding six hours.

Limitation of punishment.

Heads of villages to report to the police officer of the district all cases wherein they have inflicted punishment.

Second. Heads of villages shall report to the police officer of the district all cases in which they shall have exercised the power of punishment granted to them by the first clause of this section, but it shall not be necessary for them to report the cases in which they may dismiss parties.

Heads of villages, how to proceed on receiving information of stolen property.

XI. *First.* Where heads of villages may have credible information of stolen property being concealed, and there may be reason to apprehend that it will be made away with unless prompt measures be taken to secure it, they shall cause search to be made, and the property, if found, to be secured and forwarded with the offender to the police officer of the district. If the place of concealment be a dwelling-house, the search shall be made only between sunrise and sunset.

Heads of villages to apprehend and send to the police officer of the

Second. Heads of villages shall apprehend and send to the police officer of the district all persons who may be found selling property which there

may be reasonable ground to suspect has been stolen, and of which such persons may not be able to give a satisfactory account.

Third. Heads of villages shall also send to the police officer, along with the persons accused of selling stolen property, such persons as may be able to give an account of the circumstances of the case.

district all persons found selling property suspected to be stolen.

To send also to the police officer the persons acquainted with the circumstances of the case.

XII. Heads of villages shall take charge of all stray cattle, horses, sheep, and other strays of which the owners may not be known, and shall report each case to the police officer of the district.

Heads of villages to take charge of all strays, and to report each case to the police officer of the district.

XIII. *First.* The head of the village, on receiving information of the discovery of the body of a person supposed to have been murdered, shall immediately proceed to the spot with the kurnum and two or three respectable inhabitants, in whose presence he shall examine every person who may be able to afford any information regarding the discovery of the body and its appearance when discovered, or regarding the murder of the deceased, if the body should have been deprived of life by murder.

Heads of villages, how to proceed on the discovery of dead bodies.

Second. The head of the village, on receiving information of the discovery, shall also, without delay, send notice of it to the police officer of the district, and if the police officer shall arrive at the spot in time to inquire into the circumstances under which the body may have been discovered, the inquiry shall be conducted under his superintendence.

Heads of villages to send notice of the discovery of dead bodies to the police officer of the district.

Third. If the police officer should not appear to conduct the inquiry, the head of the village shall cause the kurnum to take down in writing the evidence of the persons who may be examined, and to record any necessary particulars respecting the appearance of the body, and to frame a report of the whole proceedings. The head of the village shall attest such report with his signature, and having procured it to be attested by two or more of the inhabitants who may be present at the investigation and by the kurnum, he shall forward it to the police officer of the district with the evidence he may have taken.

Heads of villages, how to proceed if the police officer should not appear to conduct the inquiry.

Fourth. If on the proceedings of the head of the village, there shall in any case appear ground for suspecting any person or persons who may be within his jurisdiction of having committed the murder, the head of the village shall immediately apprehend and send such person or persons to the police officer of the district.

Heads of villages to apprehend and send to the police officer of the district any person suspected of committing the murder.

Rescinded by Sec. ii., Reg. IX., 1828.

XIV. Kurnums shall keep registers, [*according to the following form,*] of persons confined by the heads of villages under Section X. of this regulation, and these registers shall be transmitted monthly by the heads of villages to the police officers of their respective districts, to be forwarded to the magistrate.

Registers of persons confined by heads of villages to be kept by kurnums, and transmitted monthly to the police officer of the district.

[Form of register.]—*Rescinded by Section II., Regulation IX.*, 1828.

XV. Village watchers, by whatever local name distinguished, shall perform their customary police duties under the immediate authority of the heads of their respective villages, but they shall not be called upon to make compensation for losses by theft.

Village watchers to perform police duties.

Not to make compensation for losses by theft.

XVI. In villages where the office of village watcher does not exist, and where it appears that the duty cannot be discharged by any of the other

Village watchers to be appointed to villages where none exist.

From what classes of persons to be selected.

village servants, village watchers shall be appointed by the magistrate, and shall, as far as possible, be selected from the dhers, beders, and other castes best qualified for police duties.

The office of village watcher to be hereditary.

XVII. *First.* The office of village watcher, wherever it may be found to exist, and wherever it may be hereafter created under the provisions of the preceding section, shall be hereditary.

Death of village watchers to be reported to the police officer of the district, and the name of the successor to the office.

Second. Upon the death of any village watcher, the head of the village shall report the same to the police officer of his district, for the information of the magistrate, and also the name of the person who may have succeeded by inheritance to the office.

Allowances made to the village watchers appointed under Section XVI. to be hereditary.

XVIII. Village watchers appointed under Section XVI. of this regulation shall be entitled to receive such allowances in land, grain, or money, as Government may allot for their maintenance, and the allowances thus made shall be hereditary in their families.

XIX., XX. [Appointment, suspension, and removal of village watchmen.]—*Rescinded by Section VII., Regulation VI.*, 1831.

Village watchers to apprehend and carry before the head of the village persons found or accused of committing offences.

XXI. Village watchers shall apprehend persons whom they may discover committing any criminal act or breach of the peace, and carry them before the head of the village. They shall likewise apprehend and carry before the head of the village all persons charged with committing offences or breaches of the peace, and shall require the prosecutor to accompany them.

Village watchers to report suspicious persons to the kurnum and head of the village.

XXII. Village watchers shall report to the kurnum and the head of the village, all suspicious persons either residing in or passing through the village.

Village watchers to give information of all that concerns the peace and good order of the village.

XXIII. Village watchers shall likewise report to the kurnum and head of the village all information which they may obtain connected with the peace and good order of the village, and they shall, in all things connected with their duty, obey such orders as they may receive from the heads of their respective villages.

Cutwals and their peons to be subject to the tahsildar and head of the village.

XXIV. Cutwals and their peons, wherever it may be necessary to employ them, shall be subject to the authority of the tahsildars and heads of villages, and shall be directed by their orders in all police duties, in furnishing supplies for travellers, and in the maintenance of the peace.

Tahsildars, or native collectors of districts, to be ex officio heads of the police of their respective districts.

XXV. *First.* Tahsildars or native collectors of districts, by whatever name designated, shall ex officio be heads of the police of their respective districts; they shall be charged with the maintenance of the peace, and they shall report to the magistrate all acts which they may do, and all material information which they may receive connected with their police duties.

The revenue servants to perform police as well as revenue duties.

Second. The peshkars, gomashstas, and peons, who are or may be employed under tahsildars of districts, shall perform the duties of police as

well as revenue duties, and they shall be considered officers of police as well as revenue servants.

XXVI. *First.* Tahsildars shall render all possible assistance to the village police on or for the apprehension of offenders.

Tahsildars to assist the village police.

Second. They shall also send peons to markets, fairs, and other public meetings in their district, in order to preserve the peace.

Tahsildars to send peons to markets, &c.

See Sec. iii., Reg. IV., 1821.

XXVII. *First.* Upon a complaint being made to a tahsildar of any murder, robbery, house-breaking, theft of a considerable amount or attended with aggravating circumstances, setting fire to a house or other buildings, counterfeiting the coin, or other heinous offence, he shall make such inquiries as may be necessary to ascertain whether any credit be due to the accusation, and if it shall appear to be worthy of credit, he shall immediately make every exertion to apprehend the person or persons who may be accused, or to whom suspicion may attach of having committed the offence.

How to proceed on information of heinous offences.

Second. When the accused or suspected persons shall be brought before the tahsildar, he shall take down in writing, in their presence, the depositions of the witnesses who may be present, and if, in the course of the inquiry, it shall appear that there are other persons who may be able to give evidence material to the case, he shall summon such persons and take their depositions.

What evidence to be taken in those cases by tahsildars.

Third. The tahsildar shall also receive the confession of the prisoner, in any case in which the prisoner may make a free and voluntary confession, and cause the same to be reduced to writing and signed, or if the prisoner should be unable to write, marked by the prisoner in the presence of two or more respectable persons. [*not being servants of the Government.*]

Tahsildars may receive confessions of prisoners.

Rescinded by Sec. ii., Reg. V., 1819.

Fourth. So soon as the tahsildar shall have finished the investigation, which shall be completed within forty-eight hours if possible, he shall forward his proceedings, with the prisoner and witnesses, to the *criminal judge* of the zillah, with a report.

Tahsildars to forward their proceedings to the *criminal judge.*

See Sec. ii., Reg. III., 1817.

[Form of report.]—*Rescinded by Section II., Regulation IX.* 1828.

If a delay of more than forty-eight hours should occur, an explanation of the cause of such delay is to be stated at the bottom of the report.

See Sec. ii., Reg. III., 1817.

Fifth. The *criminal judge* shall, immediately on the receipt of such paper, certify on the back of it whether or not the prisoner and documents have been received, and shall return it by the police peons to the tahsildar, and no other communication shall be necessary.

The judge to certify on the back of the paper the receipt of the prisoner and documents.

See Sec. iii., Reg. IV., 1821.

XXVIII. If a prisoner should, in his confession made before a tahsildar, criminate another person, the tahsildar shall secure such person; and provided the accusation be corroborated by any persons who may appear or be brought by summons before the tahsildar, he shall forward such accused person to the *criminal judge*, together with the witnesses and his proceedings in the case, as is directed in the preceding section.

Tahsildar, how to proceed if a prisoner shall, in his confession, criminate another person.

See Sec. iii., Reg. IV., 1821.

XXIX. Upon the arrival of persons charged with any heinous offence, who may have been apprehended and forwarded to the tahsildar by heads

How the tahsildar is to proceed on persons charged with heinous

offences being sent to him by heads of villages

of villages, the tahsildar shall proceed as directed in the two foregoing sections.

Officers of police or others maltreating a prisoner or witness, how punishable.

XXX. Any officer of police or other person maltreating a prisoner or witness, for the purpose of obtaining information or confession, shall be subject to punishment by the magistrate according to the nature of the case; and should the offence be of an aggravated nature, the party offending shall be forwarded to the *criminal judge* to be punished by him, or committed for trial before the *Court of Circuit.*

Tahsildars, how to proceed in certain bailable cases

XXXI. In cases of bailable offence or misdemeanour, which shall not appear to require the immediate apprehension of the party accused, the tahsildar shall summon him in writing and take his declaration, and if necessary, the depositions of any witnesses to the truth of the charge; he shall then take security for the appearance of the party accused, together with the accuser and witnesses, on a stated day, before the magistrate, to whom he shall immediately report the case and transmit the depositions.

See Sec. iii., Reg. IV., 1821

Bail not to be required in trivial cases. Exception.

Tahsildar to dismiss trivial complaints in certain cases.

XXXII. *First.* In trivial offences bail shall not be required, unless there is reason to believe that the party accused means to abscond.

See Sec. iii., Reg. IV., 1821

Second. If the charge in such cases shall appear groundless, or if the parties shall agree in writing, the plaintiff to withdraw, and the defendant to permit the withdrawing of the complaint, the writing being attested by two creditable witnesses, the tahsildar shall dismiss the complaint without making any report thereof to the magistrate.

Tahsildars, how to proceed on complaint of offences specified in Section X.

XXXIII. *First.* Where complaints of offences of a trivial nature, such as are specified in Section X. of this regulation, may be preferred to a tahsildar in the first instance, he shall inquire into the same; and if the offence be proved, he shall have authority to punish the offender by imposing on him a fine not exceeding *one rupee,** or by confining him in the choultry for a time not exceeding twenty-four hours; or if he shall be of any of the lower castes of people, by putting him in the stocks for a time not exceeding six hours.

See Sec iv., Reg. IV., 1821, and Act XXXIII., 1837

To forward monthly registers of punishments to the magistrate.

Second. The tahsildar shall keep registers of punishments according to the form prescribed in Section XIV. of this regulation, to be forwarded monthly to the magistrate.

See Cl. 4, Sec iv., Reg. IV., 1821.

Tahsildars to communicate to each other information on subjects connected with the peace of their respective districts.

XXXIV. Tahsildars of districts shall reciprocally communicate any information which they may receive of offences committed, or of gangs of robbers, or of suspicious persons, having entered or taken refuge in each other's districts, and shall co-operate in all things for the apprehension of offenders and the general security of the country.

Police officers to pursue offenders into any district or zillah.

XXXV. *First.* Tahsildars and the officers acting under them shall have authority to pursue offenders into whatever district or zillah they may fly, and to require the officers of police in such district or zillah, and if necessary, the inhabitants in general, to assist them in securing the offenders, and such police officers and inhabitants shall immediately afford

* Extended to three rupees by Cl. 1, Sec. v., Reg. IV., 1821. Commutable—see Cl. 2, Sec. v., Reg. XIII., 1832.

the required assistance. Tahsildars and other police officers apprehending persons within a different zillah from that to which they belong, on a warrant from a magistrate, or in consequence of a pursuit on a hue and cry raised against such persons, shall bring them before the magistrate of the zillah in which they may be apprehended, and report the cause of the seizure of such persons. If such persons shall be apprehended under a warrant issued by the magistrate of another zillah, and the magistrate of the zillah in which they may be apprehended shall be satisfied of the identity of such persons with those intended by the warrant, he shall affix his signature to such warrant, which shall be a sufficient authority for the police officers to convey the offenders from the zillah in which they may be apprehended, to the magistrate in whose jurisdiction the offence may have been committed. But if the persons apprehended and brought before such magistrate shall appear not to be those intended by the warrant, he shall forthwith cause them to be released.

Magistrate, how to proceed on the offenders being brought before him on a warrant

Second. If the parties shall be apprehended without a warrant, on information given to the police officers, or on hue and cry, the magistrate within whose jurisdiction they may be apprehended shall investigate the case, and if he shall be satisfied that there is sufficient cause for bringing the parties before the magistrate in whose jurisdiction it may be alleged that they have committed offences, he shall forward them with a letter to such magistrate; but if the magistrate shall be satisfied that the alleged offence or offences have not been committed, or that there is no ground to suspect the persons apprehended to have been concerned in committing such offence or offences, he shall forthwith cause them to be discharged.

Magistrate, how to proceed on offenders being brought before him without a warrant

See Sec iii, Reg IV, 1821

XXXVI. The tahsildar in all cases of murder within his district shall himself, if possible, proceed to the spot, examine the body, the place where it was first found, and all other circumstances that may be likely to lead to the discovery of the perpetrators of the crime.

Tahsildar, in all possible cases, to proceed to the spot where a murdered body may be found

See Sec iii, Reg IV, 1821.

XXXVII. Where tahsildars may have credible information of stolen property being concealed, and there may be reason to apprehend that it will be made away with unless prompt measures be taken to secure it, they shall cause search to be made, and the property, if found, to be secured and forwarded with the offender to the magistrate. If the place of concealment be a dwelling-house, the search shall be made only between sunrise and sunset.

Tahsildars, how to proceed on receiving information of stolen property

XXXVIII. In districts where, from the land-rent being paid directly to the collector, there may be no tahsildars, the magistrate shall grant to the most respectable native revenue servant employed in the collection of the customs or other dues of Government, the same police authority as is vested in tahsildars. But in the ancient zemindaries whose revenues have always been under the exclusive management of the zemindars themselves, the magistrate shall not establish any police officer, except in such places as darogahs may have already been established, without the previous sanction of the Governor in Council.

When there may be no tahsildar, the magistrate empowered to entrust the same police authority to other revenue servants

No police officer to be established in certain zemindaries without the sanction of Government

Exception

XXXIX. Magistrates are authorized to grant, upon their own responsi-

Magistrates, in cer-

tain cases, to vest zemindars with police authority.

bility, to zemindars who may be desirous of acting as heads of police, and whom they may consider to be qualified for the office, sunnuds to act as such within the limits of their respective zemindaries only. The magistrate shall prescribe to the zemindars, in their commissions, the whole or such part of the duties and authority vested by this regulation in tahsildars as they may deem proper.

Ameens of police to be appointed in large towns.

XL. In large towns, where it may be found that the police duties cannot be conducted by the head inhabitant, the magistrate shall appoint a person to act as ameen of police, either immediately under his own orders, or under the tahsildar of the district; and either with the police powers vested in heads of villages, or with those vested in tahsildars by this regulation, as may appear expedient.

Powers enlarged by Sec ii., Reg. IV., 1821, and Act XXX., 1837.

Assistant collectors to be charged with police duties in certain towns.

XLI. In towns where, from the resort of Europeans, the employment of a native as ameen of police may be found insufficient, an assistant magistrate shall be stationed, and shall, within his jurisdiction, have the same police authority as is granted to the magistrate by this regulation, or such part of it as may be deemed expedient by the magistrate.

Power to delegate authority extended by Sec ii., Reg. IX., 1818.

Limitation of time for the admission, by police officers, of petty complaints.

Such complaints may be received by the magistrate at all times.

XLII. No police officer shall entertain complaints of petty offences, unless such complaints shall be preferred within three months from the date of the act complained of. It shall be at the option of the parties, however, to prefer complaints of such petty offences to the magistrate at any time, and if the delay shall be shewn to have been unavoidable, the magistrate shall have authority to receive and investigate such complaints.

Persons tendering property for sale or pawn, under suspicious circumstances, to be arrested.

XLIII. All persons are authorized and directed to secure strangers, or suspicious persons, who may be found offering property for sale or in pawn, at a price evidently below its real value, or removing property, under suspicious circumstances, at an unseasonable hour of the night, and to bring them, with the least possible delay, before the police officer of the jurisdiction in which the offence may be committed.

XLIV., XLV. [Prosecution of police officers for extortion or oppression.]—*Rescinded by Section II., Regulation III.*, 1819.

Police officers not to take cognizance of cases of adultery and fornication.

XLVI. Tahsildars and other police officers acting under them shall not take cognizance of cases of adultery or fornication.

Magistrates charged with the maintenance of the peace of their districts.

XLVII. The magistrates shall be charged with the maintenance of the peace within their respective zillahs, and whenever their establishments may be insufficient to resist banditti or other disturbers of the public peace, they shall apply for assistance to the nearest military station, *as directed in Section X., Regulation III.*, 1810.

Rescinded by Sec. ii., Reg II., 1832.

Police peons to be considered revenue servants as well as officers of police.

XLVIII. The police establishment, which may be transferred to the collectors as magistrates, shall not be considered as distinct from the revenue establishments, but shall be equally employed in police and revenue duties as occasion may require.

XLIX. The magistrate shall require all manufacturers of fire-arms and offensive weapons to take out licenses from their offices within a certain day, of which due notice shall be given, and any person who shall be found after that period manufacturing such weapons without license shall be liable to be punished by the magistrate by a fine not exceeding fifty rupees. But nothing in this section shall be construed to prohibit the manufacture of arms, or the inhabitants from keeping them for their defence.

Manufacturers of fire-arms to take out licenses from the magistrate.

Punishment on omission

L. Magistrates shall reciprocally communicate any information which they may receive of offences committed, or of gangs of robbers, or of suspicious persons having entered or taken refuge in each other's districts, and shall co-operate in all things for the apprehension of offenders and the general security of the country.

Magistrates to communicate to each other information on subjects connected with the peace of their zillahs.

LI. *First.* The magistrate and, under his orders, the tahsildars and heads of villages shall have authority to prevent the forcible occupation or seizure of lands or crops.

The magistrate, and officers under him, to prevent forcible occupation or seizure of lands or crops

See Sec xi. et seq., Reg V, 1822

Second. When riotous assemblages are formed in consequence of disputes respecting the right of ploughing any waste or uncultivated lands which may not be in the possession or occupation of any person, the magistrate and, under his orders, the tahsildars and heads of villages shall have authority to determine who shall plough them for the present, in order that cultivation may not be impeded by the land being kept uncultivated while the trial which the parties may seek is depending. But in all the cases specified in this section the parties shall be at liberty to seek redress from any competent jurisdiction.

On riotous assemblages about ploughing lands not in the occupation of any one, to determine who shall plough them, till the dispute be settled

Third. The provisions of the two preceding clauses shall be considered as equally applicable to the forcible occupation or diversion of water for cultivation.

The same provisions applicable to the forcible occupation or diversion of water for cultivation.

LII. The strays referred to in Section XII. of this regulation, of which the owners cannot be found, shall, after the expiration of three months, be sold by public auction by order of the magistrate, and if within six months more no person shall appear to claim the proceeds, the amount thereof, after deducting the expenses incurred, shall be carried to the credit of Government.

Strays, how to be disposed of

LIII. Magistrates are authorized to determine the rates of hire to be paid in their respective districts by travellers to palankeen-bearers, coolies, and boatmen, and for draught and carriage cattle; and the rates so determined shall be made public by a table authenticated by the signature of the magistrate, copies of which shall be kept by the police officers at the several stations in the district for reference. Provided, however, that the resident inhabitants, in their ordinary transactions, shall not be bound to abide by the rates specified in the tables authenticated as aforesaid.

Magistrates to determine the rates of hire to be paid by travellers to palankeen-bearers, &c

Proviso

LIV. Magistrates shall have authority to receive complaints regarding frauds committed in using false weights and measures, and in such cases shall proceed as directed in Section XXXII., Regulation IX., 1816.

Magistrates may receive complaints of frauds committed in using false weights and measures

No order to be issued to any police officer except by the magistrate or his assistants.

LV. No order shall be issued to any police officer excepting by the magistrate of the zillah or his assistants.

Modified by Sec. xlii., Act VII., 1843.

Magistrate to correspond direct with Government when necessary.

LVI. The magistrates shall correspond direct with Government in matters of police, whenever they may deem it necessary.

A.D. 1816. REGULATION XII.

A REGULATION *for authorizing Collectors to refer Claims regarding Lands or Crops, the validity of which Claims may depend on the determination of a disputed Boundary; as also certain Disputes respecting the occupying, cultivating, and irrigating of Land, to be tried and determined by Village and District Punchayets; and for prescribing the Rules under which the Trial of such Disputes shall be conducted, and the Decisions of the Punchayets carried into execution:* PASSED *by the Right Honourable the Governor in Council of Fort St. George, on the* 13*th of September,* 1816, *corresponding with the* 31*st Avani of the year Dhatu,* 1738*th year of Saliwahana, and with the* 20*th Shawal,* 1231 *Hijra.*

Preamble.

THE mode of determining the validity of claims to disputed lands or crops prescribed in Section II., Regulation XXXII., 1802,* being considered to be inconvenient to the parties, and the determining, in the Adawlut of the zillah, of suits respecting the occupying, cultivating, and irrigating of land, which may arise between proprietors or renters and their ryots, in those districts where the land revenue is fixed either permanently, or for a term of years, being also regarded as liable to the same objections; and it being deemed expedient that further provision should be made for the investigation and determination of such claims, and that collectors should for that purpose be authorized to refer them for trial and decision to village and district punchayets; the Governor in Council has passed the following rules, to be in force in the territories subject to the Presidency of Fort St. George.

Village and district punchayets authorized to determine suits referred to them by collectors.

II. Village and district punchayets are hereby authorized to hear and determine such suits as may be referred to them by the collectors of zillahs under this regulation, through the village and district moonsifs.

See Sec. xv., Reg. V., 1822

Vakeels to be relatives, servants, or dependants of their employers.

III. Plaintiffs and defendants shall be allowed to employ a relative, a servant, or a dependant to act in their behalf in suits which may be brought before the collectors of zillahs under this regulation, under the same provisions as are prescribed by Clauses Second and Third, Section XIV., Regulation VI., 1816, for suits before the district moonsifs.

In what cases persons may prefer their claims to the collectors.

IV. *First.* In cases of claims to lands or crops in districts permanently settled or otherwise, the validity of which claims may depend on the

Extended by Sec. xviii., Reg V., 1822.

* Rescinded by Sec. x., Reg. V., 1822.

determination of an uncertain and disputed boundary or land-mark—and also in cases of disputes respecting the occupying, cultivating, and irrigating of land which may arise between the proprietors or renters and their ryots, in those districts only where the land revenue is fixed, either permanently or for a term of years—persons having such claims may prefer them in person or by vakeel to the collector of the zillah in which the lands may be situated.

Second. The plaint, if for land, shall contain as accurate a description as can be obtained of the land claimed, its position, boundaries, extent, and the value of its estimated annual produce, also whether it be subject to the payment of rent or revenue, or whether it be exempt from any charge on these accounts, also the time when the cause of action arose, the name and residence of the person or persons complained against, and all material circumstances which may elucidate the transaction.

What the plaint is to contain if for land

Third. If the plaint be for water, it shall, with regard to the land to be watered, state the above particulars, and in addition thereto the custom of the village relative to the irrigation of the land in question.

What the plaint is to contain if for water.

V. *First.* The collector, on receiving a complaint preferred under the preceding section, shall issue a summons to the defendant containing a short abstract of the complaint, and shall require the defendant to appear at the cutcherry of the collector, in person or by vakeel, on a day specified, to make answer to the complaint. The summons shall be attested by the seal of the collector and his official signature, or that of his assistant, and shall be served by a single peon of the collector's establishment.

Summons to the defendant to be issued

Contents of the summons

How to be attested and served.

Second. The collector's peon shall require the defendant to affix his signature to the summons, in acknowledgment of its having been duly served; and in the event of the defendant refusing to affix his signature thereto, the peon shall call upon some of the village officers or neighbours of the defendant to witness such refusal and to attest the endorsement of it, which he shall make on the summons, and shall return the same to the collector on or before the day fixed for such return.

Peon, how to proceed.

Refusal to acknowledge the summons, how to be attested

Third. If a defendant against whom a summons may issue shall abscond, or is not after diligent search to be found, or shall shut himself up in his own, or in any house or building, or retire to any place, so that the process cannot be served upon him, and the peon shall return that on such account he has not been able to serve or execute the process; or if he shall refuse to acknowledge the service of the summons, on return being made in the mode prescribed in the preceding clause, the collector shall cause a writing in the language of the district to be stuck up in some conspicuous part of his cutcherry, containing a copy of the summons and a notice that if the party shall not appear on a day to be specified (which shall not be less than fifteen days from the time that the notice may be fixed up), the collector will proceed without further notice to refer the cause, with the consent of the plaintiff, to be tried and determined by a punchayet of the district in which the disputed lands may be situated, without the appearance or answer of the defendant. The collector shall likewise order a copy of the summons and notice to be fixed up, with all practicable despatch, on the outer door of the house in which the defendant may have usually dwelt, or in some conspicuous place in the village or other place in which he may have generally resided. The peon serving

How the collector is to proceed if a defendant is not to be found, or refuse to acknowledge the summons.

Notice to be affixed: containing what

Where the notice is to be affixed.

Return, how to be made.

the summons shall return the order, with an endorsement stating at what times and places the summons may have been fixed up.

Collector how to proceed if the defendant appear

Fourth. If the defendant shall appear by the time limited in the notice, the collector shall proceed to investigate the cause of his absence, or the circumstance of his refusal to sign the summons, and if it shall appear to the satisfaction of the collector that the conduct of the defendant has been contemptuous, he is empowered to punish such contempt by imposing a fine on the defendant, according to the circumstances of the case, not exceeding ten *Arcot* rupees; and if such fine be not immediately paid, or security given for the payment within a reasonable time, the collector shall punish such defendant by committing him to the zillah jail, or by keeping him in custody in the cutcherry or village choultry, for a period not in any case exceeding fifteen days, or until the fine shall be paid.

Defendant liable to fine for contempt

Collector how to proceed if such fine be not paid or security given.

Plaint to be read to the defendant in presence of the plaintiff

Fifth. On the appearance of the defendant, if he shall appear according to the first summons, or by the time limited in the notice, the collector shall cause the plaint to be read over to the defendant in the presence of the plaintiff, and shall demand whether he admit or deny the truth of the complaint. If the defendant shall acquiesce in the truth of the complaint, the collector shall record such acquiescence at the foot of the plaint, and require the defendant to attest the same with his signature in the presence of witnesses, not being servants of the collector's establishment, who shall also attest the same, and the document shall be countersigned by the collector, who shall return the document to the complainant, together with an order to the tahsildar or principal native revenue officer of the district, or village moonsif, to transfer the lands described in the plaint to the plaintiff; or if the plaint include crops grown on such lands, to cause the crops, or the value of them, to be restored to the plaintiff by the defendant; or if the plaint be for water, to order the water to be distributed as required in the plaint—and no other proceedings shall be necessary in the cause.

Collector how to proceed on acquiescence in the truth of the plaint

Collector how to proceed on the defendant denying the truth of the plaint

Under what circumstances a village punchayet to be assembled

Sixth. If the defendant shall deny the truth of the plaint, the collector shall inquire of the parties whether they mutually consent to have the cause investigated and decided by a village punchayet; and upon their agreeing in writing to have the matter investigated and decided by the punchayet of any particular village, the collector shall immediately forward the petition of plaint with an order to the moonsif of that village to assemble a punchayet without delay to investigate and determine the suit.

Matter may be referred to a district punchayet at the request of either party

Seventh. If either the plaintiff or defendant shall object to the reference of the cause to be tried and determined by a village punchayet, and either of them shall desire in writing that it may be referred to be tried and decided by a district punchayet, the collector, whether the other party agree to such reference or not, shall forward the plaint to the moonsif of the district in which the disputed property may be situated, with an order to assemble a punchayet within fifteen days from the receipt of such order, to investigate and determine the suit.

If neither party agree to the reference, the suit to be dismissed

Eighth. If neither of the parties shall agree to the reference of the suit to a district punchayet, the suit shall be dismissed, and the parties shall be at liberty to seek redress from the *Zillah Court* or any competent jurisdiction.

Punchayets how to be assembled, and their

VI. *First.* The punchayets shall be assembled according to the rules

prescribed for assembling village and district punchayets, and their proceedings in cases referred under this regulation shall be conducted according to the general rules enacted in Regulations V. and VII., 1816, for their guidance, with the following qualifications.

Proceedings how conducted.

Second. When only one of the parties shall appear before the district moonsif, the punchayet shall be formed upon the challenge of such party only, and shall proceed to try the suit without requiring the agreement specified in Clause Second, Section IV., Regulation VII., 1816.

On the appearance of only one party, the punchayet to be formed on the challenge of such party; the agreement referred to not required.

Third. When the decree has been framed and two copies of it prepared, it shall be read in the presence of the parties, and the two copies shall be sealed up in a packet and delivered to the moonsif, who shall forward it to the collector sealed as he received it.

Two copies of the decree, duly attested, to be forwarded to the collector through the moonsif.

Fourth. Decrees of the village and district punchayets in suits which may be referred to them by the collectors under this regulation, shall not be carried into execution until confirmed by the collector, nor shall they be set aside for any other cause than gross partiality on the part of the punchayet.

Decrees in suits referred by collectors under this regulation not to be executed until confirmed by the collector.

Decrees, in what cases to be set aside.

VII. The collector shall detain the packet in the state in which he received it for twenty days; and if in that time no charge of gross partiality shall be preferred by either party against the punchayet, he shall open the packet and confirm the decision by affixing his seal and signature to each of the two copies, and he shall return them to the moonsif from whom he received them.

What forms to be observed by the collector on receiving the packet.

VIII. *First.* The moonsif, on receiving the copies of the decree confirmed by the collector, shall summon the parties and deliver to each of them a copy of the decree.

When the decree is to be delivered to the parties.

Second. If either the plaintiff or defendant shall fail to appear in person or by vakeel to receive a copy of the decree, or having attended shall refuse to receive a copy, the moonsif shall cause to be endorsed on the copy intended for such party, such omission or refusal, and the date. The moonsif shall attest the same with his signature, which shall be witnessed by any two credible witnesses. The copy so endorsed shall be deposited in the records of the district moonsif, or the village kurnum, as the case may be, to be delivered to the party afterwards claiming it.

Non-appearance, or refusal to receive a copy, to be endorsed on it.

IX. *First.* If either of the parties shall, within the prescribed period of twenty days, charge the punchayet with gross partiality, and if the partiality charged against the punchayet shall be established to the satisfaction of the collector, by the *oaths* of two credible witnesses at the least, he shall in every case, whatever the amount or value of the suit may be, submit his proceedings, with his opinion on the case, to the *Provincial Court of Appeal*, who, provided the charge be proved by such proceedings to their satisfaction, shall annul the decision, and the parties shall be at liberty to have recourse to another punchayet or to any other competent jurisdiction.

Collector how to proceed on a charge of partiality being preferred to him, and proved to his satisfaction.

Second. Provided, however, that where the decision of a second punchayet shall agree with the decision of a former punchayet in the same suit, it shall be final.

Decision of a second punchayet in the same suit to be final, if it agree with a former decision.

Third. If the partiality charged against the punchayet shall not be

Collector how to pro-

ceed on the partiality not being proved. May levy a fine.

proved to the satisfaction of the collector, he shall confirm the decree as prescribed in Section VII. of this regulation, and shall levy a fine from the party making such groundless charge not exceeding one hundred *Arcot* rupees.

Decrees, how to be executed.

X. Decrees of village and district punchayets, in cases referred to them under this regulation, shall be carried into execution on the written application of the party in whose favour the decree may be given, by the collector, or by the tahsildar or principal native revenue officer of the district, by causing the boundary, when the suit relates to a disputed boundary, to be marked out in the presence of the village moonsif and kurnum and two or more of the principal inhabitants, and in all other cases by causing the land to be given up or the water to be distributed as prescribed by the decree.

Suits under this regulation exempt from stamp-duties. Charges to which they are liable

XI. Suits instituted before the collectors under this regulation shall be exempt from all stamp-duties, and shall be liable only to such charges as are specified in Regulation V., 1816, if decided by a village punchayet, or to such charges as are specified in Regulation VII., 1816, if decided by a district punchayet.

Decisions to be included in the monthly reports of village and district moonsifs.

XII. The village and district moonsifs shall include in their monthly reports all decisions of punchayets in suits referred to them under this regulation.

Copy of this regulation to be lodged with the village kurnum.

XIII. A copy of this regulation shall be lodged with and preserved by each village kurnum for the information of the village moonsifs.

A.D. 1816. REGULATION XIII.

[Framed upon Regulation I., 1814, of the Bengal Code.]

A Regulation* *for modifying and amending the Rules before enacted regarding Stamped Paper and Stamped Cadjans; and for consolidating the Fees payable on the institution of Suits, and on Exhibits and Summonses for Witnesses, with the Duty levied by means of Stamps:* Passed *by the Right Honourable the Governor in Council of Fort St. George, on the 26th of October,* 1816, *corresponding with the 12th of Arpasi of the year Dhatu,* 1738*th year of Saliwahana, and with the 4th of Zilhijja,* 1231 *Hijra.*

Preamble

The rules prescribed by the existing regulations for computing and realizing the fees on the institution of suits, on exhibits, and on summonses for witnesses, have occasioned inconvenience by occupying the time of the Courts of Judicature to the hinderance of their more important

* The stamp-duties modified in respect of suits in which native officers and soldiers are parties by Reg. VIII., 1817.

duties; and it has appeared that the convenience both of the Government and of the community at large would be promoted by consolidating these fees with the duty already levied by means of stamps on the pleadings, and further by modifying the existing rules for raising a revenue by means of stamps; the Governor in Council has therefore been pleased to enact the following rules, to be in force throughout the territories immediately dependent upon the Presidency of Fort St. George, from and after the *first day of February*, 1817.*

II. Regulations IV., V., VIII. and XVII., of 1808, Section XXXV., Regulation VII., of 1809, and Regulation II., 1813, and generally all rules respecting the duties levied by means of stamped paper and stamped cadjans, and regarding the fees to be paid on the institution of suits, on exhibits and on summonses for witnesses, shall be rescinded from and after the *first day of February*, 1817.*

Regulations rescinded.

III. *First.* A general stamp-office shall be established, at or near the Presidency, under the superintendence of a civil covenanted servant of the Honourable Company, to be designated the superintendent of stamps; and all paper or other material intended for any of the purposes hereinafter mentioned shall be stamped at his office, and counter-stamped at the general treasury of Government.

A general stamp-office to be established at or near the Presidency, under a covenanted servant, who shall be designated the superintendent of stamps.

Second. The superintendent of stamps shall be subordinate to the Board of Revenue; and, previously to entering upon the execution of the duties of his office, shall take and subscribe the oath prescribed in the Appendix (Form No. 1) of this regulation before one of the members of that board.

See Act XXI., 837

The superintendent of stamps to be subordinate to the Board of Revenue and to take an oath as prescribed in the Appendix, No. 1.

Third. The superintendent shall prepare and transmit to the different officers entrusted with the disposal of stamps, the quantities which they may require for use in their respective districts.

He shall prepare and transmit stamps to the different officers.

Fourth. The superintendent shall keep an account of the quantity and value of stamps prepared by him, of the issue of stamps, of the sums brought to credit in the several districts, and of the quantity of stamps remaining in store, and he shall prepare and submit to the Board of Revenue such periodical reports and statements as they may require.

What account of stamps to be kept by him.

Fifth. It shall be the duty of the superintendent of stamps to proceed in person to any district in which he, or the Board of Revenue, may at any time conceive that his presence is necessary, with the view of detecting forgeries, or other abuses, or irregularities committed in the sale of stamps.

The superintendent to proceed in person to any district in which he or the Board of Revenue may consider his presence necessary for the detection of forgeries or other abuses.

IV. *First.* No stamp shall be valid or be issued from the stamp-office until the paper, parchment, cadjan-leaf, or other material on which the stamp has been impressed, shall have received the prescribed counter-stamp at the general treasury.

No stamp to be valid or issued from the stamp-office until it shall have received the prescribed counter-stamp at the general treasury.

Second. The sub-treasurer shall keep an account of the quantity and value of the stamps which may be counter-stamped by him, which account shall be transmitted to the Board of Revenue, at the close of each official year, in order that it may be compared with the accounts of the superintendent.

The sub-treasurer to keep an account of the stamps which may be counter-stamped by him, and to transmit it to the Board of Revenue at the close of each official year.

* The operation of this regulation was deferred till 12th July, 1817, by Sec. iii., Reg. II., and Sec. ii., Reg. VI., 1817.

Only one set of stamps applicable to every purpose for which stamps are required by the present regulation to be used.

Inscriptions thereon

V. *First.* One set of stamps, applicable to every purpose for which stamps are required by this regulation, shall hereafter be used in the general stamp-office, bearing inscriptions in the English, Persian, Tamul, and Teloogoo characters, as follows :—

Two annas.
Four annas.
Eight annas.
One rupee.
Two rupees.
Four rupees.
Eight rupees.
Sixteen rupees.
Thirty-two rupees.
Fifty rupees.
One hundred rupees.
One hundred and fifty rupees.
Two hundred and fifty rupees.
Three hundred and fifty rupees.
Five hundred rupees.
Seven hundred and fifty rupees.
One thousand rupees.
Two thousand rupees.

In ordinary cases the stamps to be impressed on paper of the manufacture of the Madras provinces, and the Board of Revenue to regulate the sizes of the paper

Copies of the proceedings and judgments *of the Sudder Adawlut, in appeal to the Governor General in Council*, to be on paper of European manufacture, bearing a stamp of the value prescribed in the present regulation, as also copies of decrees in certain cases

Cadjan leaf to be used in certain districts

Persons desirous of having instruments executed on vellum, parchment, or other material, entitled to have the same stamped on paying the established duty.

Bonds, deeds, and other instruments executed on such materials, if duly stamped, will be received in evidence in the Courts of Judicature.

Second. The above stamps shall, in ordinary cases, be impressed on paper of the manufacture of the territories dependent upon the Presidency of Fort St. George, and it shall be the duty of the Board of Revenue to regulate the sizes of such paper in such manner as may be best adapted to the convenience of the community without injury to the public revenue, according to the true intent and meaning of the rules contained in the present regulation; provided, however, that paper of European manufacture, bearing a stamp of the value hereinafter specified, shall be used [*for the copies of the proceedings and judgments of the Court of Sudder Adawlut, which may be appealed to the Governor-General in Council, as also*] for all copies of decrees in regular or summary suits which may be furnished to the parties by the sudder ameens, *by the judges, assistant judges,* [*or registers*] *of the Zillah Courts, by the Provincial Courts,** and by the Sudder Adawlut; provided, also, that the superintendent shall always keep in deposit a sufficient supply of the cadjan-leaf, duly stamped, for the use of those districts in which that material is ordinarily employed for the execution of certain instruments instead of paper; provided, likewise, that if any person shall be desirous of having any instrument executed on vellum, parchment, or any other material, instead of paper or cadjan-leaf, he shall be entitled to have the same stamped, supposing it to correspond nearly with the regulated size of stamped paper, on paying the established duty. Bonds, deeds of conveyance, and other instruments executed on any material of the above description, if duly stamped, shall accordingly be receivable in evidence in the Courts of Judicature, in the same manner as if such instruments had been executed on common paper according to the ordinary practice of the stamp-office.

Superseded by Reg VIII 1818, and Act XI., 1839

* Under the changes made by Act VII., 1843, this passage must be read thus.—by principal sudder ameens or subordinate judges, or by the judges or assistant judges of the Zillah Courts.

VI. It shall not be necessary for stamped paper or other material to bear the written official signature of the superintendent of stamps, or other authorized officer under him, but stamped cadjans, previously to being issued from the stamp-office, shall be signed by a native register, to be appointed for this purpose by the superintendent.

The superintendent's signature not necessary for stamped paper or other material, but all cadjans before being issued shall be signed by a native register

VII. It shall be the duty of the mint-master at Madras to cause the dies to be engraved at the mint, on the application of the Board of Revenue, and in conformity to such suggestions as they may offer.

Dies to be prepared at the mint at Madras

VIII. The size or shape of the dies shall be changed as often as the Board of Revenue may deem necessary, with the view of detecting or preventing forgeries: provided, however, that nothing herein contained shall be construed to authorize that board to alter the prescribed impression of the dies.

Size and shape of the dies may be changed as often as the Board of Revenue may deem it necessary.

Prescribed impression not to be altered

IX. [Deeds and instruments not bearing the prescribed stamps not to be received in evidence.]—*Rescinded by Section II., Regulation II.*, 1825, *and new rules enacted in Section III. of that Regulation.*

X. *First.* An office for the sale and distribution of stamps shall be established in each district, under the superintendence and responsibility of the collectors of the land revenue, who shall receive a commission of five per cent. on the gross produce derived from the sale and distribution of stamps in such district.

An office for the sale and distribution of stamps to be established in each district under the superintendence of the collector of land revenue, who shall be allowed a commission.

Second. The collectors shall indent upon and grant receipts in duplicate to the superintendent of the general stamp-office for such quantities of stamps as may be required by them for the supply of their respective districts.

The collectors to indent upon the superintendent of the general stamp-office for such quantity of stamps as they may require.

Third. It shall be the duty of the collectors and their assistants, or other European officers authorized to dispose of stamped paper, previously to issuing such paper to their native agents for sale, or to disposing of it themselves, to endorse their official signatures in writing upon each paper; and the Courts of Judicature shall not admit or file any stamped paper, unless it be authenticated in the manner herein provided.

All stamped papers, previous to being issued by the collectors, to be endorsed with their official signature, and no stamped papers unless so endorsed to be admitted in any Court of Judicature.

Fourth. A darogah of stamps shall be appointed at each of the stations of the collectors and assistant collectors, who shall be paid by commission, or by salary, or partly by commission and salary, as the Board of Revenue, with the sanction of Government, may deem most advisable.

A darogah of stamps to be appointed at each collector's station, who shall be paid either by salary or commission

Fifth. It shall be the duty of the darogah of stamps to count and examine the stamps received from the stamp-office, and to countersign the receipts granted by the collector.

Duty of the darogah of stamps.

Sixth. Licensed venders of stamps shall be established in every pergunnah, or at such places as the Board of Revenue may determine, who shall be paid by salary or commission, or partly by salary and commission, as that Board may, with the sanction of Government, direct. It shall be the duty of the collectors to cause those officers to be at all times adequately supplied with the requisite quantities of each sort of stamps. In like manner, it shall be the duty of the Board of Revenue at all times to satisfy themselves, that no obstacles occur to the mercantile business, or other pecuniary transactions of the country, from any delay or difficulty

Licensed venders of stamps to be established in certain places, who shall be paid by salary or commission, and to be at all times adequately supplied with the requisite quantities.

in procuring the stamps required for the conduct of the affairs of individuals.

Stamp darogahs and persons authorized to retail stamps to execute certain engagements and to receive certain sunnuds.

Seventh. Every stamp darogah, and every person authorized to retail stamps, shall give security to the collector for the due performance of an engagement to be executed by him, agreeably to the forms prescribed in the Appendix, Nos. 2 and 3, and shall receive a sunnud prepared agreeably to the Forms Nos. 4 and 5.

What accounts to be kept by the stamp darogahs

Eighth. The stamp darogah shall keep an account of the quantity and value of stamps supplied by him to the different venders, and every vender shall keep a day-book exhibiting the stamps sold by him, which day-book shall be transmitted to the zillah stamp-office at the end of each month; and every vender shall, on receiving a supply of stamped paper or cadjan for sale, from the stamp darogah, grant a receipt for it; he shall at the same time carefully examine the stamped paper or cadjan entrusted to his charge, to satisfy himself that it bears the Government stamp, which he must certify in the receipt granted to the stamp darogah.

The collector to transmit to the general stamp office such accounts as the superintendent may require

Ninth. The collectors shall transmit to the general stamp-office such accounts as the superintendent may be authorized by the Board of Revenue to require.

No person to sell stamps, excepting those authorized by the present regulation, under pain of prosecution and punishment

Tenth. No person, excepting the superintendent of stamps, the collectors of the land revenue, or other European officers invested with the charge of the office for the sale and distribution of stamps, and the authorized native venders, shall be deemed competent to sell stamps; and any other person who may sell stamps in opposition to this prohibition shall be liable to be prosecuted for such act before the *criminal judge*, and punished on conviction, to the full extent of the powers vested in the *criminal judges* by the regulations.

What instruments are to be written on stamped paper, and how the value is to be regulated

XI. From and after the date specified in the preamble to this regulation, every bond, promissory note, bill of exchange, letter of credit, or other obligation for the payment of money—every receipt or acquittance, whereby any sum of money or demand shall be acknowledged to have been paid, received, liquidated, discharged, accounted for, or in any manner satisfied—every deed of gift, sale [*devise*,]* or other transfer of property, real or personal—every lease, deed of mortgage, or other limited assignment of land—every deed of contract, marriage settlement, partnership, agreement, security, or engagement for a sum of money—or for property—exceeding the value of *sixteen** rupees, which may be executed within the provinces subject to the Presidency of Fort St. George, shall be written on paper (or some other material) impressed with the Government stamp, the value of which stamp shall be regulated as follows.

TABLE.

1. If the bond or other instrument shall be for a sum *exceeding sixteen* Arcot rupees, or if the value of the property transferred, or otherwise affected by it, shall exceed sixteen rupees and not exceed* 64 *rupees, the deed shall be executed on stamped paper of the value of two annas.**

2. If above 64 rupees and not exceeding 125 rupees, four annas.

* It was enacted by Sec. iv., Reg II., 1825, that instruments for sums not exceeding sixty-four rupees, and wills, shall not require a stamp.

3. If above 125 rupees and not exceeding 250 rupees, eight annas.
4. If above 250 rupees and not exceeding 500 rupees, one rupee.
5. If above 500 rupees and not exceeding 1,000 rupees, two rupees.
6. If above 1,000 rupees and not exceeding 2,000 rupees, four rupees.
7. If above 2,000 rupees and not exceeding 5,000 rupees, eight rupees.
8. If above 5,000 rupees and not exceeding 10,000 rupees, sixteen rupees.
9. If above 10,000 rupees and not exceeding 20,000 rupees, thirty-two rupees.
10. If above 20,000 rupees and not exceeding 50,000 rupees, fifty rupees.
11. If above 50,000 rupees and not exceeding 100,000 rupees, one hundred rupees.
12. If above 100,000 rupees, one hundred and fifty rupees.

All pottahs, cabooliats, or other instruments relative to lands, held exempt from the payment of revenue to Government, to be written on stamped paper.

Substitute "sixty-four."

Extended to abkary receipts and engagements by Sec. ix., Reg. I., 1820.

XII. *First.* To prevent misconstruction, it is hereby declared, that every lease and its counterpart (pottah and cabooliat) or other engagement contracted between landlord and tenant, and every receipt or other acknowledgment for the payment of rent exceeding [*sixteen*] rupees, is required to be written on paper or other material bearing the prescribed stamp, supposing that such lease, receipt, or other instrument relate to lands held exempt from the payment of revenue to Government, but that instruments of the correspondent descriptions which have relation to lands subject to the payment of revenue to Government, need not be written on stamps.

Rules regarding the stamped papers on which copies of certain documents are required to be written.

Second. All authenticated copies of the documents specified in the preceding section which may be prepared as legal vouchers by a cazee, mooftee, or other authorized person, shall be written on stamped paper or cadjan, according to the rates prescribed for the originals of such deeds; any copies not written on such paper or cadjan will not be admissible in evidence under *Section IX. of this regulation.*

Security-bonds and other deeds not relating to any specific sum of money or any specific value are to be written on stamped paper of the value of one rupee.

Third. Security-bonds for appearance (Hazir-zamini), security-bonds for the payment of eventual costs of suit, as well as all other security-bonds not being for a specific amount; and all deeds of contract, partnership, or agreement, and engagements of whatever nature, which may not relate to a specific sum of money or to a specific value, so as to make it practicable to apply to them the table of rates stated in the preceding section, are required to be written on stamped paper or stamped cadjan of the value of one rupee, under the penalty declared in *Section IX. of this regulation.*

Pauper pleadings exempted from stamps. See Sec. vii., Reg. VII., 1818, and Reg. III., 1822.

Stamp-duties to be levied in lieu of fees hitherto paid on the institution of civil actions, on summonses and on exhibits.

XIII. *First.* From and after the date specified in the preamble to this regulation, the fees hitherto paid on the institution of civil actions, on summonses, and on exhibits, shall be discontinued, and the following stamp-duties shall be levied in lieu thereof.

TABLE.

1. In original regular suits instituted in any Court of Judicature, and in appeals regular or special preferred from the judgments of any such court to a superior court, if the amount or value of the property claimed

shall not xceed sixteen *Arcot* rupees, the plaint or petition shall be written on paper of one rupee.

2. If above 16 rupees and not exceeding 32 rupees, two rupees.

3. If above 32 rupees and not exceeding 64 rupees, four rupees.

4. If above 64 rupees and not exceeding 150 rupees, eight rupees.

5. If above 150 rupees and not exceeding 300 rupees, sixteen rupees.

6. If above 300 rupees and not exceeding 800 rupees, thirty-two rupees.

7. If above 800 rupees and not exceeding 1,600 rupees, fifty rupees.

8. If above 1,600 rupees and not exceeding 3,000 rupees, one hundred rupees.

9. If above 3,000 rupees and not exceeding 5,000 rupees, one hundred and fifty rupees.

10. If above 5,000 rupees and not exceeding 10,000 rupees, two hundred and fifty rupees.

11. If above 10,000 rupees and not exceeding 15,000 rupees, three hundred and fifty rupees.

12. If above 15,000 rupees and not exceeding 25,000 rupees, five hundred rupees.

13. If above 25,000 rupees and not exceeding 50,000 rupees, seven hundred and fifty rupees.

14. If above 50,000 rupees and not exceeding 100,000 rupees, one thousand rupees.

15. If above 100,000 rupees, two thousand rupees.

The value of the property how to be assumed in suits for land paying revenue to Government.

In suits for land exempt from the payment of revenue to Government.

In suits for houses, gardens, or other property, real or personal, and in actions for the recovery of damages

XIV. *First.* In suits for land paying revenue to Government, the value of the property shall be assumed at the amount of the annual produce of the land, to be estimated according to the rule prescribed in Section III., Regulation III., 1802.

Second. In suits for land held exempt from the payment of the public revenue to Government, the value of the property shall be assumed at ten times the amount of the annual produce of the land, to be estimated as directed in Section III., Regulation III., 1802.

Third. In suits for houses, gardens, tanks, or other property, real or personal, excepting the two descriptions of lands mentioned in the two preceding clauses, and in actions for the recovery of damages in matters relating to marriage, caste, or any personal injury, the value shall be estimated according to the rule contained in Section III., Regulation III., 1802.

XV. [Fees of registers, sudder ameens, and moonsifs, on suits decided by them, to be paid out of the stamp-duties.]—*Superseded by Acts V.*, 1835, *and XXIX.*, 1836.

No exhibit to be filed without an application praying its admission written on stamp-paper of a prescribed value.

XVI. *First.* No exhibit in any original regular suit, or in any appeal regular or special, shall be filed in any Court of Judicature without an application praying the admission of the exhibit, which application shall be written on stamped paper as follows.

In the Court of the sudder ameen, on paper of the value of four annas.

[*In the court of the register, on paper of the value of eight annas.*]

In the *Zillah Courts*, on paper of the value of one rupee.

In the *Provincial Courts of Appeal* and in the Sudder Adawlut, on paper of the value of two rupees.

Second. Vakalutnamahs and mokhtarnamahs, arbitration-bonds, security-bonds for appearance, as well as security-bonds for the eventual payment of costs, or for the performance of a decree, or for staying or enforcing the execution of a decree which may be executed in any original suit or appeal, shall not be liable to the stamp-duty on exhibits.

Vakalutnamahs and certain other documents declared to be not liable to stamp-duties on exhibits.

XVII. In like manner, no summons shall be issued for the attendance of any witness in any original regular suit, or in any appeal regular or special, without an application praying the attendance of such person, which application shall be written on stamped paper of the value specified in the preceding section, according to the court in which it may be delivered and recorded.

No summons to be issued for the attendance of a witness without an application written on stamped paper of the value specified in the preceding section.

XVIII. In lieu of filing a separate application for the admission of each exhibit and the attendance of each witness, it shall be sufficient to file one or more applications or lists, including any number of exhibits desired to be filed, and the names of any number of witnesses desired to be summoned; provided that such applications or lists be written on one, two, or more sheets or rolls of stamped paper, the total value of which shall correspond in amount with that of the stamped paper which would have been requisite had the application for each exhibit or witness been written on separate stamped paper, under the rules contained in Sections XVI. and XVII. of this regulation.

A separate application for each exhibit or attendance of each witness not required, but one or more applications or lists including any number of exhibits and the names of any number of witnesses

Proviso

XIX. Every answer, reply, and rejoinder, every supplement, razeenamah, or petition, which shall hereafter be filed in any original regular suit, or in any appeal regular or special, shall be written on stamped paper as follows.

In the court of the sudder ameen, on paper of the value of four annas.

[*In the court of the register on paper of the value of eight annas.*]

In the *Zillah Courts*, on paper of the value of one rupee.

In the *Provincial Courts of Appeal* and in the Sudder Adawlut, on paper of the value of four rupees.

Every answer, reply, and rejoinder, &c., which may be filed in any suit, to be written on stamped paper of a specified value.

XX. In all original summary suits and summary appeals authorized by the regulations, the plaint, petition, or application, the answer and other pleadings, *all* miscellaneous petitions and applications which may be presented to the different authorities in the Judicial department, all mokhtarnamahs and vakalutnamahs, shall be written on stamped paper as follows.

If preferred to a sudder ameen, on paper of four annas.

If preferred to a *zillah* [*or criminal*] judge, [*or to a register or assistant to a criminal judge,*] on paper of eight annas.*

If preferred to a *Provincial Court of Appeal* [*or Circuit,*] on paper of one rupee.

If preferred to the Court of Sudder [*or Foujdarry*] Adawlut, [*or to the Board of Revenue,**] on paper of two rupees.

In all original summary suits and appeals, the plaint, petition, answer, and other proceedings, and all miscellaneous petitions and applications of a certain description in the Revenue and Judicial departments, to be written on stamped paper of a specified value.

* Stamps not required on petitions to the criminal courts here mentioned, see Sec. ix., Reg. II., 1822; nor on petitions to the Board of Revenue, see Sec. v., Reg. II., 1825.

All applications made by the collectors or Board of Revenue to the Courts of Judicature on subjects regarding the public revenue may be written on common paper.

Proviso.

XXI. All applications made by the collectors, or the assistant collectors, or by the Board of Revenue, to the Courts of Judicature, for the apprehension or confinement of defaulters, or on any other subject relating to the public revenue, may be written upon common paper without a stamp. This rule, however, shall not be considered applicable to any regular suit in which the Board of Revenue, a collector, or an assistant collector, may be a party, either on their own account as individuals, or on the part of Government.

No copy of any paper to be authenticated by any public officer, or received as evidence, unless transcribed on stamped paper, according to the rates specified in this section.

XXII. *First.* No copy of any paper shall be authenticated by any public officer, *or received as evidence* in any court of judicature, unless transcribed on stamped paper according to the following rates, viz.: See Sec. iii., Reg II, 1825

Copies of decrees passed by the sudder ameens shall be written on paper of the value of eight annas.

Copies of decrees passed [*by registers and*] by judges of the *Zillah* Courts shall be written on paper of the value of one rupee.

Copies of decrees passed by the *Provincial Courts of Appeal* shall be written on paper of the value of two rupees.

Copies of decrees passed by the Court of Sudder Adawlut shall be written on paper of the value of four rupees.

[*Copies of the proceedings of the Court of Sudder Adawlut, prepared in order to be transmitted to the Governor-General in Council, shall be transcribed on paper of the value of two rupees.*] Rescinded by Sec. ii., Reg VIII., 1818, and Act XI., 1839.

Authenticated copies of revenue and judicial proceedings, authenticated copies of accounts, statements, reports, or other documents which individuals may require for use or reference, shall be written on paper of the value of eight annas.

Copies of decrees kept as records of the courts to be written on unstamped paper of European manufacture, of same size and description as that mentioned in the preceding clause.

Second. Copies of the decrees which may be prepared by the courts above mentioned, to remain with their own records, shall be written on unstamped paper of European manufacture, of the same size and description as that which may be stamped for the copies of decrees to be delivered to the parties.

Copies of decrees, &c., made for records of the courts, or for transmission to other courts, may be written, as heretofore, on unstamped paper.

Third. Copies of proceedings and orders, accounts, statements, or other papers made for records of court, or for transmission to other courts or public offices, may be written, as heretofore, on unstamped paper, except in cases in which it may be otherwise specifically provided for by the regulations.

Pleadings and other documents on stamped paper, how to be written.

XXIII. *First.* All pleadings, petitions, and applications, all deeds, documents, and other papers, whether originals or copies, which are required by the regulations to be written on stamped paper, are to be written in a fair, legible manner, and as they have been hitherto usually prepared, as well with regard to the size of the writing, the space between the words, and the number of lines in each page, as to all other matters regarding their engrossment.

Rules to be adopted when the whole of the subject-matter of a plaint or other pleading cannot be contained in a single sheet of paper.

Second. If the subject-matter of any plaint or petition of appeal cannot, under the rule contained in the preceding clause, be conveniently comprised in a single sheet or roll of the stamped paper prescribed for such plaint or petition of appeal, any additional sheets or rolls which may be required for that purpose shall be of the description of stamped paper specified in Section XIX. of this regulation. In like manner, if the subject-

matter of any answer, reply, rejoinder, or other pleading cannot be comprised in a single sheet or roll of the stamped paper prescribed for such pleading, any additional sheets or rolls which may be required for that purpose shall be of the description of the stamped paper specified in Section XIX. of this regulation.

Fine to be imposed on a breach of the preceding rule.

Third. If a party or vakeel or other person shall hereafter file in a *Zillah* Court, in a *Provincial* Court, or in the Sudder Adawlut, any plaint or pleading required to be written on stamped paper, which may not have been prepared in conformity with the foregoing provisions of this section, the court is authorized to impose on such party, vakeel, or other person, any fine which they may deem proper, provided that such fine shall in no instance exceed three times the amount or value of the additional stamped paper which would have been required had the plaint or pleading been drawn up in conformity with the foregoing provisions.

Similar provisions with reference to miscellaneous petitions or applications.

Fourth. If the subject-matter of any miscellaneous petition or application, or of other papers specified in Section XX. of this regulation, cannot, under the rule contained in Clause First of this section, be conveniently comprised in a single sheet or roll of the prescribed stamped paper, any additional sheets or rolls which may be required for that purpose shall be of the value and description specified in the said section of the regulation in question, and if any such petition or paper, which may not have been prepared in conformity with the foregoing rule, and with the rules contained in Clause First of this section, shall be hereafter presented to any of the courts or officers specified in Section XX. of this regulation, such court or officer is hereby authorized to impose a fine on the party or person presenting it, under the same limitations as are prescribed in the preceding clause.

In what cases the courts may authorize a plaintiff to file a duplicate of the plaint for the purpose of correcting errors in the valuation of the cause of action.

XXIV. *First.* If, during the trial of any regular suit, it shall appear that the plaint has been written on stamped paper of a less value than that which ought to have been used under the provisions of Section XIII. of this regulation, and the court shall be of opinion that the error or omission did not arise from any fraudulent motive, or from any design on the part of the plaintiff to evade the provisions of the regulations, it shall be competent to the court either to permit or to direct the plaintiff or appellant in the suit to file a duplicate of the plaint, on stamp-paper of such a value as may be sufficient to complete the full amount of the stamp-duty prescribed by the section above mentioned.

Provisions for the repayment to a plaintiff of the stamp-duty or institution-fee in certain cases.

Second. In addition to the provisions of Section IV., Regulation XII. of 1809, it is hereby declared that if on the trial of any summary appeal preferred under that section, the *Provincial* Court shall be of opinion that the original suit was not from its amount regularly cognizable in the *Zillah* Court, but that the irregularity in the institution of such suit did not arise from any fraudulent motive on the part of the plaintiff, it shall be competent to the *Provincial* Court to direct the *zillah* judge to refund to the plaintiff the amount of the fee or stamp-duty paid by him on instituting the suit in the *Zillah* Court, and the plaintiff shall be permitted to institute his suit de novo in the *Provincial* Court.

In the event of a judgment in favour of a pauper plaintiff being

XXV. *First.* If on the suit of a pauper plaintiff a judgment be passed in favour of the plaintiff, and the defendant appealing from such judgment

reversed, on appeal, by a higher court, and the original claim pronounced to be groundless, the amount of stamp-duty to be repaid to appellant or his legal representative; and how to be recovered from the pauper.

shall obtain a reversal of it with costs, so that the final judgment may be in favour of the defendant, and the original claim shall be declared groundless, the amount of stamp-duty substituted for the institution-fee, which such defendant may have paid upon his appeal, shall be returned to him or to his legal representative by the court into which the same may have been paid, and the amount shall be recovered from the pauper against whom the final judgment may be passed in the event of his being found to possess property sufficient to make good the same, as provided in *Section III., Regulation XIV. of* 1802.

Substitute Sec. ix., Reg. VII., 1818.

The Court of Sudder Adawlut may, in all other cases, order return of the whole or any part of the stamp-duty to be made as may appear to them just and proper.

Second. In all other cases, the Court of Sudder Adawlut are authorized to direct a return of the whole or a portion of the amount of stamp-duty substituted for the institution-fee, as on due consideration of the circumstances of the case, whether brought before them in appeal or referred to them by a *Provincial or Zillah* Court, may appear to them just and proper.

Extended to soldiers' suits by Cl. 4, Sec. xxii., Reg. VII., 1832.

The Board of Revenue to cause the greatest possible publicity to be given to the present regulation and the rates of duty established in it.

XXVI. It shall be the duty of the Board of Revenue to cause the greatest possible publicity to be given to the provisions of this regulation, and especially to the rates of duty thereby established on stamped paper and stamped cadjan.

The Board of Revenue, and the officers acting under their authority, to adopt all legal and proper measures for the conviction and punishment of persons forging or selling stamped paper, or guilty of other abuses.

XXVII. It shall likewise be the duty of the Board of Revenue, and of the officers acting under their authority, to adopt all legal and proper measures for the conviction and punishment of persons suspected of forging or selling stamps, or uttering stamps knowing them to be forged; and likewise for the punishment of any authorized vender of stamps—either by means of a criminal prosecution or by dismission from office, as may appear most proper, according to the circumstances of the case—who may be guilty of exacting more than the prescribed rates for the sale of stamps.

The collector of the land revenue shall be vested in ordinary cases with the charge of the stamp-office ordered to be established in each zillah, and power reserved to Government to nominate any other public officer to take charge of any such office.

XXVIII. The collectors and assistant collectors of the land revenue shall, in ordinary cases, be vested with the charge of the stamp-office ordered by the present regulation to be established in each zillah. The Governor in Council, however, reserves to himself the power of nominating any other public officer, or deputing specially any other covenanted servant of the Honourable Company, to take charge of any such stamp-office in any district in which that measure may appear to him to be advisable, and persons so nominated or deputed shall be entitled to exercise all the powers and enjoy the emoluments granted to collectors of the land revenue by this regulation.

Penalties for filing or furnishing copies of papers not written on stamp-paper.

XXIX. *First.* Any ministerial officer who may hereafter file in any Court of Justice, or in the office of any collector or other public officer, without the written order of such officer, any petition, pleading, or other document required to be written on stamped paper, which may not have been written on the prescribed stamped paper, or who shall furnish a copy of any paper or proceeding required to be written upon stamped paper, on any other paper than the required stamped paper, shall be liable to dismission from office and to the payment of a fine to Government equal to ten times the amount of the stamp-duty which would have been payable if the prescribed stamped paper had been used for such petition, pleading, or other document.

See Cl. 2, Sec. vii., Reg. V., 1831.

Second. [Penalty how recoverable.]—*Rescinded by Section VII., Regulation V.*, 1831, *and a new rule enacted.*

XXX. The provisions of this regulation are not intended to preclude individuals from making, for their private use and at their own expense, copies of the judicial or revenue papers, with the permission of the court, collector, or other public officer having charge thereof, on any paper which they may prefer; but if such copies be not made on stamped paper of the prescribed rate, they shall not be authenticated by the seal or signature of any court, collector, or other public officer, and shall not be received as evidence in any court of justice or in any public office whatever.

Copies which individuals may be authorized to make for their own use need not be written on stamped paper, but shall not be authenticated by any official seal or signature.

XXXI. Nothing in this regulation shall be construed to affect suits instituted before the native tribunals established under the provisions of Regulations IV., V., VI., and VII. of 1816, or suits preferred to collectors under Regulation XII. of 1816. Provided, however, that in appeals from the decisions of district moonsifs, under Section LIII., Regulation VI., 1816, the petition shall, agreeably to the amount or value of the property claimed, be written on stamped paper of the rate prescribed in Section XIII. of this regulation; and provided, also, that in all other cases which may be brought before the different authorities in the judicial department, under the regulations referred to in this section, the petition shall be written on stamped paper of the rates specified in Section XX. of this regulation.

Nothing in this regulation intended to affect certain suits specified.

Proviso.

APPENDIX.

No. 1.

Oath.

I, A. B., appointed superintendent of stamps, solemnly swear that I will diligently and faithfully execute the duties of the said office, according to the best of my knowledge and judgment, and that I will not, directly or indirectly, derive, or knowingly allow any person to derive, any pecuniary advantage or emolument from or on account of any matters relating to the said office, excepting such as may be expressly authorized by the Governor in Council.

SO HELP ME GOD.

No. 2.

Form of Engagement to be executed by Persons appointed to the Office of Stamp Darogah.

I, A. B., appointed by the collector of C , to be stamp darogah, do hereby engage to perform the duties attached to the office of stamp darogah.

I will carefully count and examine the stamps transmitted from the General Stamp Office, and attest the receipts executed by the collector for the same, and likewise prepare the indents for the supplies of stamps which may be required from the superintendent.

I will cause the different stamp venders established in the district to be supplied, in pursuance of such instructions as I may receive from the collector, with proper quantities of stamps, and I will carefully examine and compare the accounts of such stamp venders.

I will be responsible for the accounts of the stamp-office, and for the value of the stamps intrusted to my charge, and I will do every thing in my power to prevent imposition and fraud in the stamp-office, and will submit to the collector any information which I may obtain respecting the forgery or fabrication of stamps.

Executed before me, this day of

(Signed) C. D.
Collector.

No. 3.

Form of Engagement to be executed by Persons appointed to the Office of Stamp Vender.

I, A. B., appointed to vend stamps at C , in the pergunnah of D , in the district of E , do hereby engage faithfully to observe the following conditions :—

1st. That I will carefully examine every stamp-paper which may be intrusted to me for sale, and certify in my receipts for the same that such paper bears the stamp of Government and the signature of the collector or his assistant.

2nd. That I will not charge more for any stamp or stamps intrusted to me for sale than the established price for such stamp or stamps.

3rd. That I will monthly prepare and deliver to the stamp darogah, or such persons as may be authorized to receive the same, a faithful account of all the stamps which may be sold by me, and will likewise specify the balance which may remain in store under my charge, and will on no account allow any person to take stamped paper or cadjan away without receiving and bringing to account the price of such stamped paper or cadjan.

Executed before me, this day of .

(Signed) C. D.
Collector.

No. 4.

Form of Sunnud to be granted to Persons appointed to the Office of Stamp Darogah.

(L. S.)

Whereas A. B. has executed the engagement prescribed by Clause Seventh, Section X., Regulation XIII., 1816, to be entered into by persons appointed to the office of stamp darogah, I, C. D., collector of

E , do hereby constitute and appoint the said A. B. to be darogah of the zillah stamp-office under my charge.

Given under my hand and seal this day of

(Signed) C. D.
Collector.

No. 5.

Form of Sunnud to be granted to Persons appointed to the Office of Stamp Vender.

(L. S.)

Whereas A. B. has duly executed the engagement required by Clause Seventh, Section X., Regulation XIII., 1816, to be executed by persons authorized to sell stamps, I, C. D., collector of E , do hereby authorize the said A. B. to be a stamp vender, and to open an office for the sale of stamps at , in pergunnah , in the district under my charge.

Given under my hand and seal this day of

(Signed) C. D.
Collector.

A.D. 1816. REGULATON XIV.

[Framed upon Regulation XXVII., 1814, of the Bengal Code.]

A Regulation* *for amending and modifying the Rules which have been passed regarding the Office of Vakeel or Native Pleader in the Courts of Civil Judicature:* Passed *by the Right Honourable the Governor in Council of Fort St. George, on the* 26*th of October,* 1816, *corresponding with the* 12*th of Arpesi of the year Dhatu,* 1738*th year of Saliwahana, and with the* 4*th of Zilhijja,* 1231 *Hijra.*

Preamble.

Whereas it has been deemed expedient to amend and modify the provisions applicable to the office of vakeel or native pleader; and to transfer to the Provincial Courts the control now exercised by the Sudder Adawlut in the appointment and removal of vakeels or native pleaders in the Zillah Courts and in the Provincial Courts; and whereas the speedy adjustment of disputes may be facilitated by empowering the authorized vakeels to receive certain fees for legal opinions furnished by them, and by vesting them with authority to act as arbitrators under the general regulations—the following rules have been passed by the Governor in

* The rules for the conduct of vakeels in the Zillah Courts, &c., were declared applicable to vakeels in the Sudder Ameens' Courts by Sec. x., Reg. VIII., 1816. They are also declared applicable, so far as they are capable of application, to vakeels in the District Moonsifs' Courts, by Sec. xi., Act I., 1846; but they are not applicable to the court of the Village Moonsif, to District or Village Punchayets, nor to proceedings before collectors. See Sec. xxxix. of this regulation, and Sec. xiii., Act I., 1846.

Council, to be in force from and after the *first day of February*, 1817, throughout the provinces immediately subject to the presidency of Fort St. George.

Commencement of operation deferred to 12th July, 1817, by Sec. iii., Reg. II., 1817.

Regulations rescinded.

II. Regulation X. of 1802, Sections XXXII. and XXXIII., Regulation VII. of 1809, shall be rescinded from and after the *first day of February*, 1817.

The Sudder Adawlut and the *Provincial Courts* empowered to appoint the vakeels of their respective courts.

III. *First.* The Sudder Adawlut and the several *Provincial* Courts are empowered to appoint to the office of vakeel in their respective courts such a number of persons, [*being natives of India of the Hindoo or Mahomedan persuasion, and*] duly qualified for the situation, as may from time to time appear to them to be necessary.

See Act XXVII., 1836.

See Sec. iv., Act I., 1846.

Vakeels of the *Zillah* Courts to be nominated by the judges of those courts for the sanction of the *Provincial* Courts.

Second. Whenever the appointment of a vakeel may be requisite in any of the *Zillah* Courts, the judge of such *zillah* shall nominate, for the approbation of the *Provincial Court of the division*, some person [*being a native of India and otherwise*] duly qualified for the situation, and shall communicate to the *Provincial* Court such information as he may have obtained regarding the age, capacity, character, education, and past employment of the individual whom he may recommend, and no person shall be authorized to practise as a vakeel in any *Zillah* Court without the previous sanction of the *Provincial* Court.

See Sec. iv., Act I., 1846.

Pleaders to receive a sunnud from the courts to which they may be appointed.

The sunnud to be of a prescribed form.

IV. *First.* Persons who may hereafter be appointed to the office of vakeel in the *Zillah* Courts, the *Provincial* Courts, or the Sudder Adawlut, shall receive a sunnud of appointment duly authenticated by the court to which they may be respectively attached. This sunnud, which is not required to be written on stamped paper, shall be drawn up according to the Form No. 1 in the Appendix to this regulation.

And to be cancelled on the death, removal, or resignation of the pleaders.

Second. Whenever a vakeel may be dismissed from his office, or may die, or may resign his situation, his sunnud of appointment shall be recalled and cancelled by the court to which such vakeel may have been attached.

Pleaders to take an oath according to the prescribed form.

Or a solemn declaration in lieu thereof.

V. Every vakeel, previously to being allowed to practise, shall take and subscribe before the court to which he may be appointed, an oath drawn up according to the Form No. 2 of the Appendix to this regulation, or a solemn declaration in lieu thereof, under the provisions now in force, or any other provisions which may be hereafter enacted.

See Act XXI., 1837.

Pleaders liable to be dismissed for certain acts of misconduct

VI. Pleaders employed in the several Courts of Civil Judicature shall be liable to dismission from their office, whenever they may be guilty of encouraging or promoting litigious suits, of wilfully delaying the suits of their clients for their own advantage, or refusing or omitting, without sufficient cause to be shewn to the court, to carry on the suits of their clients after having accepted a vakalutnamah, [*of demanding or accepting from their clients any fee or sum of money, goods, effects, or other valuable consideration beyond the fees which they are, or may be, authorized to receive under the regulations;*] or of fraudulent practices, neglect, or other misconduct in the discharge of their professional duty, or of gross profligacy or misbehaviour in their private conduct.

Superseded by Sec. vii., Act I., 1846.

VII. [Agreements with vakeels for less than established fees declared invalid and illegal.]—*Rescinded by Section II., Act. I.*, 1846.

VIII. The vakeels are required to use due precautions to ascertain the real names and the identity of persons who may propose to employ them as pleaders, and any authorized vakeel who shall hereafter receive and file a vakalutnamah from any person under a fictitious name shall be liable to be dismissed from his office; provided, however, that the judge, upon full inquiry into the circumstances of the case, and the *Provincial* Court, on consideration of the judge's report, shall deem him to be deserving of such punishment.

Pleaders accepting vakalutnamahs in fictitious names liable to be dismissed.

IX. *First.* The vakeels are hereby enjoined not to file any plaint, answer, or other pleading without previously ascertaining that such pleading has been duly prepared in conformity with the regulations; that it contains no unnecessary repetitions of former pleadings, no terms of personal abuse or reproach against the opposite party, his vakeels, witnesses, or other persons, and no groundless imputations on any Court of Justice or public officer, but that it contains such matter only as is apparently material and relevant to the suit. Every pleading filed by an authorized vakeel shall be signed by him, in testimony of his having considered and approved its contents.

Vakeels required to examine and sign the pleadings before they are filed.

Second. In order that the expense, trouble, and inconvenience frequently experienced by filing irrelevant exhibits, and by summoning useless witnesses, may be avoided, the vakeels are hereby further required to examine the documents which their constituents may propose to exhibit in proof of their claims previously to their being filed in court, and to ascertain from their constituents, previously to summoning any witnesses, the specific points which such witnesses are expected to prove by their testimony.

Pleaders to examine exhibits previously to their being filed on the part of their clients;

And not to summon witnesses without previously ascertaining to what points their testimony is required.

Third. The courts will carefully point out to the notice of the vakeels such parts of the pleadings as are irregular, irrelevant, or otherwise objectionable, and shall record their censure of any vakeel whose conduct, in opposition to the preceding rules, may in any particular instance demand such animadversion. If notwithstanding such recorded censure, a vakeel shall again be guilty of similar misconduct, he shall be liable to forfeit in each instance the amount of the fee to which he may be entitled in the suit, or to such other fine to Government, not exceeding twenty rupees, as the court* may deem it proper to impose.

Pleaders to be censured, and eventually dismissed, for breach of the preceding rules.

X. *First.* The Sudder Adawlut and the several *Provincial* Courts will at all times exercise their discretion in removing from office any pleader of their respective courts who may be guilty of any of the acts above mentioned, or who may be otherwise deemed unfit for the situation.

The Sudder Adawlut and the *Provincial* Courts authorized to dismiss the pleaders of their respective courts.

Second. Whenever a *zillah judge* shall be of opinion that a vakeel attached to his court, or to that of [*a register or*] any of the sudder ameens, is unfit for the situation, in consequence of his having been guilty of any of the acts mentioned in the preceding sections, or that he is other-

Misconduct or disqualifications of pleaders attached to the *Zillah* Courts to be reported by the judges of those courts to the *Pro-*

* The power of fining, subject to an appeal to the zillah judge, was extended to the Native Courts by Secs. x. and xii., Act I., 1846.

rincial Courts, who will pass such order thereon as may be proper.

wise disqualified for the office of pleader, the judge shall report the circumstances of the case, together with his own opinion upon it, to the *Provincial* Court, who will pass such orders on the case as may appear to be proper, or will call for any additional information, or direct any further inquiry that the nature and circumstances of each case may appear to demand.

Pleaders attached to *Zillah* Courts may be suspended from office without the previous sanction of the *Provincial* Court.

Such cases to be immediately reported for the information and orders of the *Provincial* Court.

XI. The *zillah judges* are empowered, without the previous sanction of the *Provincial* Court, to suspend from his office any pleader attached to their courts who may be guilty of any gross act of fraud or misconduct; but in such instances it shall be the duty of the judge to report the circumstances of the case, with as little delay as possible, for the information and orders of the *Provincial* Court.

In what cases the pleaders are liable to be prosecuted in the Civil Court by their clients.

XII. *First.* The parties in a cause are authorized to prosecute their respective pleaders in the Civil Courts of Judicature for any damages or injury which they may have sustained from any breach of the regulations on the part of their pleaders, or from any fraudulent conduct or malpractices committed by their pleaders regarding the suit.

Parties may withdraw the management of a depending suit from their pleaders and may appoint new pleaders in their room.

Second. Any party in a suit who may be dissatisfied with the conduct of his pleader shall be at liberty, at any stage of the trial previously to the decision, to withdraw the power delegated to his pleader, and to appoint another vakeel to plead the cause. In such cases the party is to present a petition to the court, notifying that he has withdrawn the management of the suit from such pleader, and is to file a new vakalutnamah in the name of the pleader whom he may appoint to carry on the suit; all acts, however, which may have been done by the first pleader on the part of his client previously to his having been dismissed are to be held valid; and on the conclusion of the suit, the court will exercise its discretion in awarding to the pleader first employed any portion of the authorized fee to which he may appear justly entitled, on a consideration of the trouble which he may have undergone, and the other circumstances of the case.

The court may award to a pleader so removed any portion of the fee which may be proper

See Sec. vii., Act I., 1846.

Measures to be adopted when a pleader may be unable to attend the court from indisposition or other sufficient cause

XIII. If a pleader should be unable to attend the court in consequence of indisposition or other sufficient reason, he is to notify the same in writing to the court on unstamped paper; and the hearing of any cause in which such pleader may be employed is to be postponed to a future day, unless the party or his authorized agent shall commit the management of the cause to any other pleader of the court, or unless the party himself shall be present and willing to plead the cause in person. If the management of the cause shall be intrusted to any other pleader of the court, instead of filing a new vakalutnamah, it shall be sufficient for the party, or his agent duly authorized, to endorse on the back of the original vakalutnamah a written declaration that he has appointed some other vakeel of the court to conduct the cause, either permanently or during the absence of the pleader first appointed; and on passing a decision in such cases, the court shall direct the amount of the authorized fee to be divided between the two pleaders in such proportions as may furnish an equitable remuneration for the trouble which they may have respectively undergone.

See Sec. vii., Act I., 1846.

Penalties for pleaders absenting themselves

XIV. *First.* If a pleader shall fail to attend in court on any day fixed

for the transaction of civil business, and shall omit to notify in writing to the court his inability to attend, in consequence of indisposition or other sufficient cause, the court is authorized to impose on such pleader a fine for the first offence, not exceeding the sum of fifty *Arcot* rupees; and for the second offence, not exceeding one hundred *Arcot* rupees. If such pleader shall be guilty of a similar offence a third time, he shall be liable to dismission from his office.

from court without notifying the cause of their absence.

See Secs x. and xii, Act I., 1846, in respect of fines on vakeels in native courts

Second. If any pleader shall be guilty of disrespect to the court in open court, the court is empowered to impose a fine upon him not exceeding the sum of one hundred *Arcot* rupees.

Pleaders may be fined one hundred rupees for disrespect to the court.

XV. *First.* [Fines by sudder ameen to be reported to zillah judge for his sanction.]—*Rescinded by Section II., Act I.*, 1846.

Second. All orders imposing fines on pleaders, which may be passed by the judges [*or registers*] of the *Zillah* Courts in conformity with this regulation, shall be final, and the amount of the fines shall be levied [*either by a deduction from the fees which may become due to the offender, or*] by the process which is prescribed for the execution of decrees. [Provisions respecting fines imposed by zillah register.]—*Superseded, the office having ceased to exist.*

The orders of *zillah judges* and *registers* imposing fines on pleaders to be conclusive.

See Act I., 1846.

XVI. The vakeels attached to one court are not to be allowed to plead in any other court; but this rule is not intended to preclude the *zillah judges* from making such an allotment and distribution of the pleaders attached to their courts as may from time to time appear convenient, on a consideration of the civil business in their own courts, and in those [*of their registers and*] of the sudder ameens.

Vakeels not allowed to plead in other courts than in those to which they may be attached. Exceptions.

XVII. The authorized pleaders of the *Zillah* Courts are hereby prohibited, without obtaining the previous sanction of the judges of those courts, from officiating as agents in any prosecution, trial, or proceeding before the magistrates or their assistants. This prohibition, however, is not intended to apply to the cases of pleaders who may be employed on the part of Government in conducting the prosecution of persons charged with criminal offences, or in the execution of any other duties in the criminal department which such pleaders may be directed or authorized to perform on the part of Government, under the regulations which are now, or may hereafter be, in force.

Vakeels prohibited from being employed as agents in the Foujdarry Courts of the zillahs.

XVIII. *First.* Whenever a vakeel attached to a *Zillah* Court may die, or may be removed from his office, or may voluntarily resign his situation, the judge of such *zillah* shall notify the same in a publication to be affixed in his own cutcherry, and in the cutcherries of the [*register,*] sudder ameens, and the collector of the district; the publication shall contain a statement of the several depending cases in which such vakeel may have been employed, and a requisition to the parties who have retained such vakeel to attend in person, or to substitute another vakeel in room of the pleader formerly appointed by them, within a reasonable period to be fixed by the court, not being less than six weeks. In such instances, instead of filing a new vakalutnamah, it shall be sufficient for the party, or his agent duly authorized, to endorse on the original vakalutnamah a written

Publication to be issued on the death, resignation, or removal of a pleader in a *zillah* court

What the publication is to contain.

declaration that he has appointed some other vakeel of the court in lieu of the pleader who may have died or resigned his office, or have been removed from his situation.

Such publication to be considered a good and sufficient notice.

Second. A publication issued in conformity with the preceding rules shall be held and considered to be a good and sufficient notice; and if any party shall not attend or appoint another vakeel within the period limited in the publication, he shall be required to shew cause for the omission; and if sufficient cause be not assigned, the court shall proceed as in case of default, in conformity with the provisions in force.

Publication to be issued on the death, resignation, or removal of a pleader in the *Provincial* Courts or in the Sudder Adawlut.

Third. A similar notification shall be issued on the death, resignation, or removal of any pleader attached to the *Provincial* Courts or to the Sudder Adawlut. If the pleader shall have been attached to a *Provincial* Court, the publication shall be affixed in the cutcherry of such *Provincial* Court, and of the Sudder Adawlut, and in the cutcherries of the several *Zillah* Courts included in the division; and the period to be allowed for the parties to appear and to substitute another vakeel shall not be less than two months. If the pleader shall have been attached to the Sudder Adawlut, the publication shall be affixed in that court, and in such of the *Provincial* Courts and of the *Zillah* Courts, in which it may appear necessary to publish the same with reference to the depending causes in which the vakeel may have been employed; and the period to be allowed to parties to appear and substitute another vakeel shall not be less than three months.

Similar publication may be issued in other cases.

Fourth. The courts are authorized to apply the principle of the preceding rules to cases in which the decision of suits may be materially delayed by the protracted indisposition of a pleader, or by his continued inability to attend the court from any other cause which may be expected to be permanent or of considerable duration.

Courts empowered to adjudge a reasonable portion of the fee to a pleader who may have been removed from the management of a cause without any fault on his part.

Fifth. Whenever a pleader, originally entertained by a party, may have commenced the pleadings and prosecution or defence of a suit, and from any cause not originating in the misconduct of such pleader, another pleader shall be employed in his stead, it shall be competent to the court in which the suit is decided or terminated to adjudge to the pleader so employed at the commencement of the suit (or if he be dead, to his heirs or legal representatives), such part of the established fee as may appear to be an equitable remuneration for the trouble which he may have undergone.

See Secs. vii. and viii., Act I., 1846.

Pleaders may be employed as arbitrators.

XIX. The Courts of Civil Judicature are hereby empowered to permit any of the authorized vakeels of their respective courts to be arbitrators in depending suits, subject to the several rules and provisions in force for referring suits to arbitration.

Pleaders may receive fees for legal opinions.

XX. *First.* The authorized vakeels of the Sudder Adawlut, of the *Provincial* Courts, and of the *Zillah* Courts, are hereby empowered to receive fees for legal opinions *under the provisions contained in the following clauses of this section.*

See Sec. ix., Act I., 1846.

A written statement of the case to be submitted to the pleader.

Second. Any person who may be desirous of obtaining the opinion of an authorized pleader regarding the legal validity and sufficiency of any claim, right, or title which he may suppose himself to possess, and on the consequent expediency of prosecuting or defending, either originally or in

appeal, such supposed claim, right, or title, in the Courts of Civil Judicature, may submit a written statement of his claim under his seal, signature, or mark, to the pleader whose opinion he may wish to obtain.

Third. The pleader, to whom such statement may be submitted, after an attentive consideration of the laws, regulations, usages, or precedents which may be applicable to the case, and of the arguments and proofs which may be adduced in support of the claim, shall furnish to the party, under his signature, a written declaration of his opinion, and of the grounds upon which that opinion may be formed.

The pleader to give a written declaration of his opinion.

Fourth and *Fifth.* [Rate of fees to be allowed for legal opinions.]—*Repealed by Section IX., Act I.*, 1846.

Sixth. Any pleader who, under the preceding rules, may knowingly furnish an opinion of a nature evidently calculated to promote the institution of unfounded or litigious suits, or to discourage the amicable adjustment of dubious claims, shall be liable to be dismissed from his office; and if after furnishing such dishonest opinion he shall be employed as a pleader in the suit, his fees shall be liable to be forfeited by order of the court, either to Government or to the party whom he may have wilfully misled by such opinion.

Pleaders liable to penalties for wilfully furnishing a dishonest opinion.

XXI. *First.* When a party in a cause may be desirous of retaining a vakeel for the prosecution or defence of any civil suit, he shall not be required to pay to such vakeel the retaining fee of four annas heretofore prescribed; but he shall execute to him a vakalutnamah, constituting him pleader in the cause, and authorizing him to prosecute or defend the suit, and further binding himself to abide by, and to confirm, all acts which such pleader may do or undertake in his behalf in the cause, in the same manner as if such party had been personally present and consenting; the party is to attest the instrument with his seal or signature, or with his mark, if he cannot write, in the presence of two credible witnesses, who are likewise to attest it in the same manner, and who are to attend the court and prove the vakalutnamah in all cases in which it may be judged requisite.

Retaining fee abolished.

Rules for the execution of a vakalutnamah.

Second. Such vakalutnamahs are to be written on the stamped paper prescribed in Section XX., Regulation XIII. of 1816, but shall not be liable to the stamp-duty on exhibits under Section XVI. of that Regulation.

Vakalutnamahs to be written on stamped paper, but not liable to the stamp-duty on exhibits.

XXII. When a vakeel to whom a vakalutnamah may have been executed under the preceding section shall consent to undertake the prosecution or defence of the suit, he shall affix his signature to the back of the vakalutnamah, together with the date on which such signature may be affixed, and shall thenceforward be precluded from being employed in the same cause against the party who have so retained him.

Pleaders, after accepting a vakalutnamah, are prohibited from being employed in the same cause against the party who may have retained them.

XXIII., XXIV. [Provisions for the deposit of pleaders' fees in court.]—*Rescinded by Section II., Act I.*, 1846, *together with the Forms* 3 *and* 4 *of the Appendix.*

XXV. *First.* In all regular suits which may be instituted, either originally or in appeal, from and after the first day of February, 1817, in any of the *Zillah* Courts, the *Provincial* Courts, or the Sudder Adawlut,

Specification of the rates of fees payable to vakeels in regular suits.

the vakeels employed by the respective parties are to be allowed for pleading the causes of their clients, the rates of fees calculated as follows:

Modified by Secs. vi. and vii., Act I., 1846.

In suits for money, effects, or for other personal property, or for land or other immovable property of any description, if the amount or value of the claim, estimated according to the provisions of Section XIV., Regulation XIII. of 1816, shall not exceed 5,000 *Arcot* rupees, five per cent.

If the amount or value shall exceed 5,000 rupees and shall not exceed 20,000 *Arcot* rupees, on 5,000 as above, and on the remainder two per cent.

If the amount or value shall exceed 20,000 rupees and shall not exceed 50,000 rupees, on 20,000 as above, and on the remainder one per cent.

If the amount or value shall exceed 50,000 *Arcot* rupees and shall not exceed 80,000 *Arcot* rupees, on 50,000 as above, and on the remainder eight annas per cent.

If the amount or value shall exceed 80,000 rupees, the fee to the vakeel shall be one thousand rupees, and shall in no instance exceed that sum, however great may be the value or amount of the suit in which such vakeel may be employed.

Fractions of rupees to be rejected in the preceding calculations.

Second. In all the preceding calculations where the amount or value may be in fractions of rupees, such fractions are to be rejected in calculating the fees thereupon.

A receipt to be given for the prescribed fees on stamped paper.

Third. For every sum which may be paid to a vakeel by a Civil Court on account of his fees, such vakeel shall give a receipt written on the stamped paper prescribed in Section XI., Regulation XIII., 1816.

Pleaders' fees, how to be charged in the judgment.

XXVI. *First.* If the decree shall be given against the defendant or respondent, and the whole of the money or property which may be demanded by the appellant or plaintiff shall be decreed to him, a sum equal to the whole of the fees of his pleader shall be adjudged to the plaintiff or appellant, in addition to the other costs which may be awarded to him; but if only a part of the money or property claimed is decreed to the plaintiff or appellant, a sum bearing the same proportion to the money or to the value of the thing decreed, as the fee did to the demand stated in the plaint or appeal, is to be decreed and added to the costs which may be awarded to the plaintiff or appellant.

Continuation of the same subject.

Second. If the suit of the plaintiff or appellant shall be dismissed, whether upon an investigation of the merits or otherwise, the plaintiff or appellant is to be charged with the fees of his own pleader and with those of the defendant or respondent.

Proviso.

Third. Provided, however, that if in any instance the payment of the pleaders' fees, according to the preceding rules, should not appear to be just and equitable, the Courts of Civil Judicature may exercise their discretion in charging the fees of the pleaders to the parties respectively, in such proportions as may appear equitable and proper under a consideration of all the circumstances of the case.

All legal expenses and costs to be included in the decree, and to be charged to the parties in such mode as may appear equitable.

XXVII. The Courts of Civil Judicature are to insert in their decrees all sums paid or payable by the parties under the regulations on account of fees or stamp-duties, as well as on account of compensation for the expense of witnesses, and of subsistence-money to peons employed in serving the processes of the courts, and of all other costs and expenses of

See Sec. vii., Act I., 1846.

the suit: such costs and expenses shall be ultimately charged to the parties cast, or to the parties respectively, in such proportions as the court may deem equitable.

XXVIII., XXIX. [Court how to dispose of vakeels' fees deposited.]—*Rescinded by Section II., Act I.*, 1846.

Rules where two or more pleaders may be employed by the same party.

XXX. *First.* The parties in a suit are respectively permitted to entertain two or more pleaders.

[Provision for apportionment of their fees.]—*Superseded by Section VII., Act I.*, 1846.

In such cases, one vakalutnamah only is requisite.

Second. It shall be sufficient in such cases for the party employing two or more vakeels in the same suit to file a single vakalutnamah.

[Deposit of fees under Section XXIII.]—*Rescinded by Act I.*, 1846.

See Sec. vii., Act I, 1846.

When two or more pleaders may be employed, the adverse party shall in no case pay more than the prescribed fee for one pleader

Third. If the party shall agree to pay to each of the vakeels employed by him the full amount of the authorized fee, the opposite party in the suit shall in no case be required to make good more than the fee of one of those pleaders, or such part of that fee as may be adjudged against him by the court. The fees of the other pleader are to be considered as a separate expense to be defrayed exclusively by the party entertaining him, and for which he is not to be reimbursed in any case whatever.

Rules for the payment of vakeels' fees when the suit may be withdrawn or dismissed without an investigation of the merits of the case

Modified by Sec. vii, Act I 1846

XXXI. *First.* If a suit shall be withdrawn or dismissed on default, without a determination upon the merits of the case, before all the requisite pleadings shall have been filed in the court, the respective pleaders of the plaintiff and defendant, or of the appellant and respondent, shall each be entitled to only one-fourth of the established fee, which they would have received had the suit been brought to a regular decision by the court. If a suit shall be withdrawn or dismissed on default, after all the requisite pleadings shall have been filed in court, the respective pleaders are to be entitled to *one-half* the fees which they would have received if judgment had been given in the cause. The fees in both of the above-mentioned cases are to be charged to the plaintiff or appellant withdrawing the suit, or suffering it to be dismissed on default, together with all the admitted costs incurred by the defendant or respondent.

Rules applicable to the fees of pleaders in suits adjusted by razeenamah

Second. The same rules shall be considered applicable to cases adjusted by razeenamah, except that the fees of the pleaders, and all other costs of the suit, shall be paid by the parties in such manner and proportions as may have been agreed upon, and inserted in the razeenamah.

XXXII., XXXIII. [Amount of fees in summary suits, their deposit and disposal.]—*Rescinded by Section II., Act. I.*, 1846.

XXXIV., XXXV. [Rules respecting fees on presentation of petitions, &c.]—*Rescinded by Section II., Act I.*, 1846.

Pleaders to give written receipts for documents intrusted to them by their clients.

XXXVI. Pleaders are to give written receipts on unstamped paper for all accounts, writings, or documents which may be delivered to them by their clients in the course of any suit or process; and if a pleader shall refuse to return such accounts, documents, or writings, the court, upon a

petition being presented to them for that purpose by the owners of the papers so withheld, shall cause them to be restored.

Rules for the appointment of pleaders on the part of Government.

XXXVII. *First.* One or more of the authorized pleaders of the Sudder Adawlut, of the *Provincial* Courts and the *Zillah* Courts, shall be appointed for the purpose of conducting the prosecution or defence of any suits, in those courts respectively, which may be directed to be carried on at the public expense, by any regulation, or by a special order from the Governor in Council or other authority competent to pass such order. Those pleaders shall be furnished with a sunnud or written authority to that purport in the English and Persian languages, under the signature of the secretary to Government in the Judicial department, and the sunnud shall be drawn up according to the Form No. 5 of the Appendix to this Regulation.

The death or removal of a pleader on the part of Government, as well as the nomination of a successor, to be reported to the Secretary to Government in the Judicial department.

Second. The several Courts of Justice shall report to the secretary to Government in the Judicial department, the death, resignation, or removal of any of the vakeels of Government attached to their respective courts, and shall at the same time nominate, for the approbation of Government, a proper person, being one of the authorized vakeels of the court, to succeed to the vacant office. The courts shall in all instances select from amongst the established pleaders, such individual as may appear best qualified for the situation by his character and capacity.

Duties to be performed by pleaders on the part of Government.

Third. The pleaders for Government are to undertake all causes which they may be directed to plead by orders from Government, or which may be directed by any regulation to be carried on at the public expense, upon receiving an order for that purpose either from Government, or from any officer or officers empowered by any regulation to superintend and to furnish instructions for conducting such suits. The order of Government, or of such officer or officers, is to be filed in court as the authority of the pleader to plead the cause, and is to form part of the record of the proceedings.

Such pleaders prohibited from advising parties opposed to Government.

Fourth. The pleaders of Government are prohibited from giving any advice to the parties opposed to Government in any civil suit or proceeding, and from being concerned, directly or indirectly, on their behalf, in suits which are directed to be carried on at the public expense; but in all other suits the pleaders of Government are to be at liberty to plead for either of the parties in the same manner as the other authorized pleaders of the courts.

What fees they are entitled to receive.

Fifth. The pleaders for Government are to be paid the same fees in causes directed to be pleaded at the public expense, as pleaders employed in causes between individuals, and under the same rules and restrictions.

[Section XXIII. of this Regulation declared not applicable to Government suits.]—*The section referred to is rescinded.*

To be guided by the same rules as pleaders in other suits.

Sixth. In pleading suits directed to be carried on at the public expense, the pleaders for Government are to be subject to all the rules prescribed for their guidance when pleading on behalf of individuals, except in matters or cases in which it may be otherwise specially directed by any regulation.

Another pleader may be associated with the pleader of Government in carrying on suits at the public expense.

Seventh. The Board of Revenue, [*the Board of Trade,*] or any other authorities intrusted with the management of suits on the part of Government, are empowered to associate with the established vakeel of Govern-

ment any other authorized pleader, in cases in which such aid may, from the importance of the suit or any other reason, be judged necessary or advisable: such additional pleader shall be furnished with a vakalutnamah, duly authenticated by the officer or authority employing him, and shall be entitled to receive the same fees, and under the same rules and restrictions, as if he were employed on the part of an individual, [*subject, however, to the provision contained in Clause Fifth of this section.*]

Rescinded. See Cl. 5.

XXXVIII. No part of this regulation is to be construed to prohibit or to prevent any individual from appearing and pleading his own cause in person, in any of the Courts of Civil Judicature, without employing an authorized pleader.

Individuals not prohibited from pleading their own suits.

XXXIX. The provisions of this regulation are not intended to apply to vakeels who may be employed in the courts of the village [*or district* *] moonsifs, or before the village or district punchayets, or before the collectors of zillahs, under the provisions of Regulations IV., V., VI.,* VII., and XII., of 1816.

* See Sec. xi., Act I., 1846

This regulation not intended to apply to vakeels under Regulations IV., V., VI., VII., and XII., 1816.

XL. That the pleaders in the several courts, as well as all other persons, may have it in their power to render themselves acquainted with the regulations enacted by the British Government, there shall be kept, for public inspection, in the several Courts of Judicature, printed copies of all such regulations, and of the translations in the native languages, bound up with the annual indexes. Until the regulations which may be passed in each year are so bound up, the separate copies of each regulation, with the translation which may be printed and circulated to the courts, are to be exposed as above directed; the regulations are to be deposited upon a table, expressly allotted for that purpose, in some part of the court-room, and to lie for public inspection every day, Sunday excepted, during the ordinary hours of business, when the pleaders of the courts and all other persons are to be at liberty to refer to the regulations, or to take copies or extracts from them in the court-room. On receipt of the translations of the regulations in the country languages, the several Courts of Civil Justice shall cause the same to be publicly read in their cutcherries, and shall require the native pleaders of their respective courts to take copies of any of those translations which relate, directly or indirectly, to the administration of civil justice.

The regulations are to be exposed for the public inspection, and the pleaders are required to make extracts from them.

APPENDIX.

No. 1.

Sunnud to be granted to Vakeels.

See Act XXVII., 1836

In conformity with the provisions of Regulation XIV., 1816, you, A. B., are hereby appointed to the office of pleader in the Sudder Adawlut, or in the *Provincial Court for the division of* , or in the *Zillah* Court of ; you will not be liable to be removed from your situation so long as you may conduct yourself with propriety and discharge your duty with zeal and integrity, under the rules contained in the regulations which now are or may hereafter be in force.

No. 2.

Oath to be administered to Vakeels.

I, A. B., solemnly swear that I will truly and faithfully execute the duties of pleader of the Sudder Adawlut, or the *Provincial Court for the division of* , or the *Adawlut of the zillah of* to the best of my knowledge and judgment.

Nos. 3 and 4.

[Forms of receipts and registers of fees deposited.]—*Rescinded, together with Clause Third, Section XXIII. of this regulation, by Section II., Regulation IX.*, 1828.

No. 5.

Sunnud to be granted to the Pleaders of Government in the English and Persian Languages.

In conformity with the provisions of Regulation XIV., 1816, you, A. B., are hereby appointed to the office of pleader on the part of Government in the Sudder Adawlut, or in the *Provincial Court for the division of* , or in the *Zillah* Court of ; you will not be liable to be removed from your office so long as you may conduct yourself with propriety and discharge your duty with zeal, ability, and integrity, under the regulations which are now in force or which may hereafter be enacted. See Act XXVII., 1836.

A.D. 1816. REGULATION XV.

[Framed upon Regulation XXVI., 1814, of the Bengal Code.]

A Regulation *for modifying the Jurisdiction of the Zillah and Provincial Courts, and the Court of Sudder Adawlut, in the Trial of Original Suits and Appeals; for amending some of the Rules at present in force regarding the Admission and Trial of Special and Summary Appeals from Decisions passed in regular Suits; and for limiting and altering some of the existing Provisions respecting the Pleadings and Processes, and the Mode of executing Decrees in regular Suits and Appeals:* Passed *by the Right Honourable the Governor in Council of Fort St. George, on the 26th of October,* 1816, *corresponding with the 12th of Arpesi of the year Dhatu,* 1738*th year of Saliwahana, and with the 4th of Zilhijja,* 1231 *Hijra.*

Preamble.

With the view of promoting the speedy administration of civil justice, it has been deemed expedient that certain modifications should be made in the existing rules regarding the jurisdiction of the Zillah and Provincial

Courts and the Court of Sudder Adawlut in the trial of original suits and appeals; and that some of the provisions at present in force regarding the admission and trial of special and summary appeals from decisions passed in regular civil suits should be amended; and it has been also deemed expedient to alter the rules at present in force regarding the pleadings and processes, and the mode of executing decrees in regular civil suits and appeals—the Governor in Council has, therefore, been pleased to enact the following rules, to be in force *from and after the first day of February*, 1817.

Commencement of operation deferred till 12th July, 1817, by Sec. iii., Reg. II., 1817.

II.* All original regular suits, in which the value or amount of the claim, calculated according to the provisions of *Section II., Regulation XII. of* 1809, may exceed *five thousand Arcot rupees*, shall be instituted and tried, as heretofore, in the *Provincial* Courts; but if it shall at any time appear to the Sudder Adawlut that, from the pressure of business in any of the *Provincial* Courts, suits amounting to *forty-five thousand Arcot rupees and upwards, being the amount fixed for appeals to the Governor-General in Council*, can be more conveniently or expeditiously tried in the first instance by the Sudder Adawlut than by the *Provincial* Court before which they may be depending, it shall be competent to the Sudder Adawlut to order the transfer of all or any of such suits from the *Provincial* Courts to the Sudder Adawlut. In the transfer and trial of such suits, the Sudder Adawlut shall be guided by the same provisions as are prescribed for the conduct of the *Provincial* Courts regarding the transfer and trial of original suits exceeding *five thousand Arcot rupees* in amount or value depending in the *Zillah* Courts.

Superseded by Act VII., 1843.

See Reg. VIII., 1818, and Orders in Council, 10th April, 1830, App.

The Sudder Adawlut empowered, whenever they shall see fit, to call up from *Provincial* Courts and try in the first instance suits for 45,000 rupees and upwards.

To be guided by the same rules as the *Provincial* Courts in the transferring of causes to them from the *Zillah* Courts.

III. Section VIII., Regulation VII. of 1809, is hereby rescinded.

[In what cases special appeals may lie to the Provincial Court.]—*Superseded by Acts III. and VII.*, 1843.

Section VIII., Regulation VII., of 1809, rescinded.

IV. *First.* [Grounds on which special appeals may be admitted.]—*Superseded by Section I., Act III.*, 1843.

Second. When a party, upon any of the grounds specified in *the preceding clause*,† may be dissatisfied with a judgment passed on a regular appeal by a competent civil court, and may in consequence be desirous of a second or special appeal, he shall, within the limited periods prescribed for the admission of regular appeals, present a petition to the *court which, under the provisions of Regulation VII. of* 1809, *may be competent to admit a special appeal in the case.*

Substitute Sudder Adawlut. See Act III., 1843.

Party to present a petition to the court competent to admit such special appeal.

Third. Such petition shall be written upon the stamped paper prescribed in Section XIII., Regulation XIII. of 1816, with reference to the value or amount of the suit; the petition shall state distinctly the specific ground or grounds, under *Clause First of this Section*,† on which the special appeal

Such petition to be written on stamped paper: of what description, and what it is to contain.

* This section has not been repealed, but the limitations affecting the power here granted to the Sudder Adawlut of calling up and trying in the first instance suits of an appealable amount have been altered. For the Provincial Courts there have been substituted the Zillah Courts established under Act VII., 1843. The jurisdiction of those courts commences at *ten thousand* rupees. The appeal from the Sudder Adawlut lies, not to the Governor General but, to the Queen in Council, and the amount appealable was fixed by order of Her Majesty in Council, dated 10th April, 1838, at *ten thousand* rupees.

† Substitute Sec. i., Act III., 1843.

is solicited, and shall be presented either by the party in person or by an authorized pleader of the court. In the latter case, the petition shall be signed by the pleader, who shall certify on the back of the petition that he has duly considered the grounds stated for admitting a special appeal under *Clause First of this section*,* and believes them to be well founded and sufficient.

Mode of proceeding when a special appeal may be admitted.

Fourth. If, on a consideration of the circumstances of the case, the court shall see reason for admitting a special appeal on any of the grounds stated in the *first clause of this section*,* the appellant shall be required to furnish the prescribed security, [*and to deposit the amount of the fees payable to his pleader under the rules in force*,] within a reasonable period, to be fixed by the court; when the required security [*and deposit*] shall have been duly furnished, the court will admit the special appeal, and proceed to investigate the suit, under the same rules as are prescribed for the trial and determination of regular appeals.

Rescinded by Sec. ii., Act I., 1846.

Modified by Act III., 1843.

Courts authorized to refund a portion of the stamp-duties in certain cases when the petition for a special appeal may be rejected.

Fifth. If the court shall not see sufficient reason for admitting the special appeal, and shall, in consequence reject the petition, the appellant shall not be entitled to receive back the amount or value of the stamp on which the petition may have been written under Clause Third; the *courts are*, however, vested with a discretionary authority, in any particular instance of hardship, to refund any portion, not exceeding three-fourths, of the amount of such stamp-duty to the party who may have paid the same, or to his legal representative.

Sixth. [Orders of Provincial Courts rejecting special appeals, as well as their judgments in such appeals, declared final.]—*Superseded by Act III.*, 1843, *which refers all special appeals to the Sudder Adawlut.*

Seventh. [Fees payable to vakeels on rejection of special appeals.]—*Rescinded by Section II., Act I.*, 1846.

Provisions rescinded.

V. *First.* Clauses Twelfth and Thirteenth, Section XII., Regulation IV. of 1802, and Clause Thirteenth, Section X., Regulation V. of 1802, and Section XXVIII., Regulation VII. of 1809, are hereby rescinded, and the following provisions are enacted in their stead.

Cases in which the Sudder Adawlut may admit a summary appeal.

Second.† It shall be competent to the Sudder Adawlut to receive a summary appeal from the orders or decrees of the *Provincial* Courts, in all cases in which the latter may have refused to admit an original suit or appeal regularly cognizable by them; or, having admitted such suit or appeal, may have dismissed it on the ground of delay, informality, or other default, without an investigation of the merits of the case.

Cases in which the *Provincial* Courts may admit a summary appeal.

Third.† In like manner, it shall be competent to a *Provincial* Court to receive a summary appeal from the orders or decrees of the *Zillah* Courts, in cases in which the latter may have refused to admit an original suit or appeal regularly cognizable by them, or, having admitted such suit or appeal, may have dismissed it without an investigation of the merits, on the grounds of delay, informality, or other default.

* Substitute Sec. i., Act III., 1843.

† Summary appeals now lie to and from the several courts as follows:—To the Sudder Adawlut from the new Zillah Courts, Sec. ix., Act VII., 1843—to the new Zillah Courts from the Auxiliary Courts and Principal Sudder Ameens, Sec. viii., Act VII., 1843, and Sec. iv., Act IX., 1844; from Sudder Ameens, Sec. iv., Act IX., 1844; and from District Moonsifs, Act XVII., 1838—to the Auxiliary Courts and Principal Sudder Ameens (as well as to the Zillah Judge from District Moonsifs), Act XVII., 1838.

See Cl. 1, Sec. viii., Act VII., 1843.

Fourth. On the same principle, it shall be competent to the *zillah** judges to receive a summary appeal from the orders or decrees of a [*register or*] *sudder ameen*† in cases in which the [*register or*] *sudder ameen*† may have dismissed, on the grounds of some default, and without an investigation of the merits of the case, any original suit or appeal regularly referred to them.

Cases in which the *zillah* judges may admit a summary appeal

Fifth. In all the preceding cases the summary appeal shall be preferred within the same limited period as is prescribed for the admission of regular appeals, and subject to the provisions contained in the following clauses.

Limitation of time for the admission of summary appeals.

See Cl. 1, Sec. viii., Act VII., 1843.

Sixth. Whenever a party may be desirous of preferring a summary appeal in the cases above mentioned, he shall appear, either in person or by a vakeel duly authorized, before the court which *under the preceding rules* may be competent to receive such appeal, and shall present a petition written on the stamped paper prescribed by Section XX., Regulation XIII. of 1816, and accompanied by an attested copy of the order or decree passed in the case.

On what stamped paper the petition for a summary appeal is to be written

Seventh. The party presenting such petition shall not be liable to the payment of the stamp-duty substituted for the institution-fee by Section XIII., Regulation XIII. of 1816, nor shall he be required to furnish [*the deposit for the fee of his vakeel, or*] any security, except such as may be eventually necessary under the regulations in force, for staying the execution of the decree, from which the appeal may be preferred.

Party not liable to pay the institution-fee nor to furnish the usual deposit or security.

Exception.

Eighth. It shall not be requisite to give any notice to the respondent, or to require his attendance on such summary appeal being preferred, unless in any particular instance the court may deem it proper to adopt that measure; nor shall any pleadings or proceedings be holden on such summary appeal, excepting such as may suffice to determine whether the suit was or was not rejected or dismissed by the lower court on sufficient grounds and in conformity with the regulations.

Mode of proceeding in summary appeals.

Ninth. If, upon such summary proceedings, it shall appear to the court that the suit was rejected in the first instance, or, after having been admitted, was dismissed, without an investigation of the merits, upon insufficient grounds, or in opposition to the regulations, it shall be competent to the Sudder Adawlut, to the *Provincial Courts, and to the zillah judges*,‡ respectively, to direct the lower court or officer, from whose order or decree the petition of appeal may have been presented, to receive the original suit or appeal, or to revive it if it shall have been received and dismissed, and to try and determine such cause on its merits, according to the regulations.

In what cases the lower courts may be directed to receive or revive the suit.

Tenth. If, on the contrary, such summary appeal shall be found to be groundless and litigious, the Sudder Adawlut, *the Provincial Courts, and the zillah judges*,‡ are respectively authorized and required to reject the petition for a summary appeal, and to impose such fine on the litigious appellant as may appear to be in each instance proportionable to the condition of the party and to the circumstances of the case, provided that such fine shall in no case exceed the amount of the stamp-duty which would have been payable by the appellant on the institution of such case as a regular suit or appeal. All orders imposing fines or rejecting

In what cases the courts may reject the summary appeal and fine the appellant

Proviso.

The orders of the courts in such cases to be final.

* Substitute Subordinate Judges and Principal Sudder Ameens. See Act XVII., 1838.

† Substitute District Moonsif. See Act XVII., 1838.

‡ Substitute the Zillah and other courts as at Clause First.

petitions of summary appeals which may be passed under this clause by the Sudder Adawlut, *the Provincial Courts, or by the zillah judges,** shall be final and conclusive.

Eleventh. [Pleaders' fees in such cases.]—*Rescinded by Section II., Act I.*, 1846.

Provisions rescinded.

VI. *First.* Section XXII., Regulation II., of 1802, Section XXX., Regulation IV., of 1802, and Section XXXVII., Regulation V., of 1802, are hereby rescinded; and the following rules are substituted in their stead.

Provisions regarding the mode of applying for permission to review judgments from which no appeal shall have been preferred.

Second. Any persons considering themselves aggrieved by a decree passed in a regular civil suit or appeal by a *Zillah or Provincial Court*, from which decree no further appeal may have been admitted by a superior court, and who, from the discovery of new matter or evidence, which was not within their knowledge, or could not be adduced by them at the time when the decree was passed, or from any other good and sufficient reason, may be desirous of obtaining a review of the judgment passed against them, are at liberty to present a petition for this purpose to the court in which the decree in question may be passed; such petition shall be written on stamped paper of the value prescribed in Section XX., Regulation XIII., of 1816, and shall be presented within the period of three calendar months† [*from the delivery or tender of the decree,*] which period shall be calculated according to the provisions of *Clause Tenth of Section VIII. of this Regulation.* The courts are nevertheless authorized to admit applications for a review after the period [*above mentioned,*] provided that the parties preferring the same shall be able to shew just and reasonable cause to the satisfaction of the court for not having preferred such application within the limited period; in such case, however, the courts are enjoined to proceed with caution, and to state at large upon the proceedings, their reasons for admitting such applications after the limited period. If the courts shall be of opinion that there are not any sufficient grounds for a review, they shall reject the petition, and their order to that effect shall be final; but if, on the contrary, they shall be of opinion that the review desired is necessary to correct an evident error or omission, or is otherwise requisite for the ends of justice, they shall report the same to the Sudder Adawlut, transmitting at the same time a statement of the grounds of their opinion, with a copy of the petition presented to them, and a copy of the decree passed in the case.

Substitute Act XXXV., 1837.

Provisions empowering the Sudder Adawlut to grant a review.

Third. The Court of Sudder Adawlut, in cases referred to them under the preceding clause, as well as in all cases in which a petition may be presented to them for a revision of their own judgments, which may not have been appealed to [*the Governor-General*] in Council, (or though appealed, the proceedings in which may not have been transmitted to [*the Governor-General*] in Council), are authorized to grant the review desired, if, upon a consideration of the reasons stated, the circumstances of the case shall appear in justice to require it; the Sudder Adawlut shall record on their proceedings the grounds upon which a review may be granted by them in each instance, and shall issue any instructions regarding the admission or rejection of new evidence in the case which they may deem just and proper.

Substitute Her Majesty See Reg. VIII., 1818.

* Substitute the Zillah and other courts as at Clause First, Sec. v.

† The period for appealing was shortened to thirty days by Sec. viii., Act VII., 1843.

Fourth. The order of a *Zillah Court or of a Provincial Court,* or of the Sudder Adawlut, rejecting the petition for a review in the first instance, or of the latter court refusing to sanction a review when applied for by a lower court, shall not be construed to preclude the party from instituting a regular appeal (if the case be appealable) in a competent court, subject to the conditions and rules prescribed by the regulations in force for the admission of such appeals.

The orders rejecting applications for a review not to bar the right of a party to prefer a regular appeal.

Fifth. [All original suits tried by Provincial Courts, appealable to Sudder Adawlut.]—*Superseded by Section IX., Act VII.,* 1843.

VII. *First.* The rules contained in Sections V. and VI., Regulation III., 1802, are hereby declared subject to the following modifications.

Modification of certain provisions in force.

Second. When a defendant in an original civil suit shall refuse or neglect to file a rejoinder within the period prescribed for that purpose, it shall not be necessary for the *register* (as hitherto required) to enter a rejoinder for him; but the court before whom the trial may be depending, after recording such refusal or neglect, shall proceed in the trial of the suit in the same manner as if a rejoinder, containing a general denial of the claim, had been regularly filed.

Registers not required to file a rejoinder when the defendant may refuse or neglect to do so.

Third. From and after the 1st day of February, 1817, no supplemental complaint or other supplemental pleadings shall be admitted in any suit unless the court, upon a perusal of the pleadings previously filed, and from a consideration of the circumstances alleged by the parties, shall deem it just and proper to admit such supplemental plaint or other supplemental pleadings to be filed in the suit.

Rules regarding the admission of supplemental pleadings.

VIII. *First.* Such parts of Section XII., Regulation IV., 1802, and Section X., Regulation V., of 1802, or of other provisions in force as relate to the admission of regular appeals, are hereby declared subject to the following modifications.

Modification of provisions relative to the admission of regular appeals.

*Second.** Any party who may be desirous of appealing from a judgment passed against him *from and after the first day of February,* 1817, by a sudder ameen, [*a register,*] or a judge of any *Zillah* Court, from which a regular appeal may be admissible under the regulations, shall be at liberty to present his petition of appeal without an authenticated copy of the decree, to the *judge of the zillah* in which the decision may have been passed; such petition of appeal shall not be required to contain the specific grounds or reasons of the appeal, but may state shortly that the party being dissatisfied with the judgment, is desirous of appealing from it. The petition must be written on stamped paper according to the rates contained in Section XIII., Regulation XIII., of 1816, and must be accompanied by the prescribed security for the eventual costs in appeal.

Substitute court.

The petition of appeal from the decisions passed in the Zillah Court may be presented to the judge without an authenticated copy of the decree.

The petition need not contain the detailed reasons for the appeal

But must be written on prescribed stamped paper and accompanied by the requisite security.

Third. The *zillah judge,** after referring to the decree in the original record of the suit, shall admit the appeal, provided that the petition of appeal and the security required shall have been duly presented in the mode above prescribed, within the periods limited for the admission of such appeals under the existing regulations.

The judge may admit the appeal after referring to the original decree.

Proviso.

* By Sec. vii., Act VII., 1843, the appeal from the [redacted] Court, Principal Sudder Ameen, Sudder Ameen, and District Moonsif, lies to the Zillah Court, and by Sec. ix. of the same Act, that from the Zillah Court lies to the Sudder Adawlut, see Note at Sec. v. No Registers are attached to the new Zillah Courts established under Act VII., 1843.

Fourth. [Pleader's fee to be deposited.]—*Rescinded by Section II., Act I.*, 1846.

Appellants authorized to state their reasons of appeal, either in the petition or in a separate pleading.

Fifth. The specific objections to the judgment and detailed grounds and reasons for preferring the appeal may be stated at the option of the party, in the original petition of appeal, or may be subsequently filed in the court trying the appeal as a separate pleading; in the latter case, such pleading is to be written on the stamped paper, and according to the rates prescribed for other pleadings in Section XIX., Regulation XIII., of 1816.

The provisions in the preceding clauses applicable to appeals from decisions passed by the *Provincial* Courts and by the Sudder Adawlut.

Sixth. In like manner, any parties who may be desirous of appealing from the judgments passed by the *Provincial Courts* in suits regularly appealable to the Sudder Adawlut, or from the judgments of the Sudder Adawlut in suits which may be regularly appealable to [*the Governor-General*] in Council, shall be at liberty to present their petition of appeal, without an authenticated copy of the decree, to the court by which the judgment may have been passed, in conformity with the provisions contained in the preceding clauses of this section.

Substitute Zillah Courts.

Substitute Her Majesty. See Reg. VIII., 1818.

In what cases it shall be necessary to file an authenticated copy of the decree with the petition of appeal.

Seventh. Under the preceding rules, parties in suits decided in the first instance in a *Zillah Court, a Provincial Court*, or the Sudder Adawlut, will be enabled to prefer an appeal from such decision without the necessity of filing an authenticated copy of the decree; but if any party in a suit which may be regularly appealable to a *Provincial* Court, or to the Sudder Adawlut, may be desirous, under the option allowed by the regulations, of presenting his petition of appeal in the court by which the appeal is to be tried, rather than in the court by which the decision may have been passed in the first instance, it shall be requisite for such party to file with his petition of appeal an authenticated copy of the decree.

See Note on Cl. 2.

Parties requiring a copy of a decree to furnish the requisite stamped paper.

Eighth. For the purpose of obtaining an authenticated copy of the decree in such case, the party desiring it shall furnish to the court by whom the decision may have been passed, one, two, or more sheets or rolls of the stamped paper prescribed in Section XXII., Regulation XIII., of 1816, as may be necessary for transcribing the decree.

Modified in respect of appeals to Her Majesty in Council by Act XI., 1839.

Courts how to proceed when such stamped paper may be furnished.

Ninth. When such stamped paper shall be furnished, the serishtadar, or such other principal officer as may be authorized by the court to discharge that duty, shall endorse on it the date of its being furnished, the name of the party on whose account it may be presented, and the number of the suit to which it may be intended to be applicable, and shall grant to the party a corresponding receipt for the same on unstamped paper; the copy of the decree shall then be prepared and duly authenticated, and shall be delivered or tendered to the party by whom the stamped paper may have been furnished, or to his vakeel in open court, and the date of the delivery or tender of such copy shall be also endorsed on the copy.

Tenth. [Limitation of period of appeal, how to be calculated.]—*Rescinded by Section II., Regulation VI.*, 1828, *and Section III., Act XXXV.*, 1837.

The provisions of the three preceding clauses applicable to copies of decrees or orders from which a party may desire to prefer a special appeal and a summary appeal.

Eleventh. The principles of the rules contained in Clauses Eighth, Ninth, [*and Tenth*] of this section, are to be considered applicable to all copies of decrees from which a party may be desirous of preferring a special or a summary appeal, and to all copies of orders passed by the judges [*and registers*] of the *Zillah Courts, by the Provincial Courts*, and

by the Sudder Adawlut, which those courts may be required to furnish to parties under the provisions of any regulation.

IX. *First.* Such parts of the regulations in force as require that the pleadings in appealed suits shall be conducted and filed in the same manner and under the same rules as pleadings in original suits, are hereby declared subject to the following modifications.

Modification of rules regarding pleadings in appeals.

Second. In all regular civil suits which may be appealed from and after the first day of February, 1817, to *a Zillah Court, to a Provincial Court,* or to the Sudder Adawlut, it shall be left to the option of the respondent, either to file an answer to the petition and reasons of appeal, or not, as he may judge proper; provided, however, that if no answer shall be filed by a respondent, it shall be competent to the court trying the appeal, in all cases in which it may be deemed expedient, to direct the respondent to file an answer to the petition of appeal, or to any particular points in it which may appear to require an answer or explanation.

The respondent may file an answer to the reasons of appeal or not at his option

Proviso

Third. No further pleadings beyond the answer of the respondent, shall be admitted in any appealed suits which may be instituted from and after the first day of February, 1817, except the duplicate of the plaint provided for by Clause First, Section XXIV., Regulation XIII., of 1816, or such supplemental pleadings as may be authorized by the court under the provisions of Clause Third, Section VII. of this Regulation.

No further pleadings beyond the answer to be admitted, with certain exceptions

X. *First.* In the trial of original regular suits, as well as in the trial of appeals in such suits, the prescribed pleadings shall be completed and read in open court before any exhibits are filed, or witnesses summoned in support of the allegations of either of the parties, unless special and sufficient reason be assigned for taking the immediate deposition of a witness without waiting until the pleadings are completed and read in open court.

Pleadings to be read before exhibits are filed or witnesses summoned.

Exception

Second. If from the pleadings in the case the points at issue cannot be clearly ascertained, or if from any other reason further explanations may be requisite, the courts shall on the day on which the suit may be first brought to a hearing, make such inquiries from the parties or their pleaders as may appear necessary with a view to ascertain the precise object of the action, and the grounds on which it is maintained, and shall record the result on their proceedings.

Courts to require any necessary explanations of the case from the parties or their pleaders

Third. The court shall then consider and record the point or points to be established respectively by the plaintiff or appellant, and by the defendant or respondent, and shall proceed to take the evidence which may be adduced by either party upon such points in the manner prescribed by the rules in force.

The courts to record the points necessary to be established by the parties.

Fourth. In like manner, if proof shall be required on any other points in the course of the trial, such points shall be recorded on the proceedings, and the proper party shall be called upon for the requisite evidence, and no exhibit shall be filed or witness summoned, unless expressly declared to be in proof, or refutation of some point upon which the court may have directed that evidence should be taken.

And any additional points which may subsequently appear necessary; and no evidence to be admitted except with regard to the points so recorded

XI. [Rules for the examination of absent witnesses.]—*Rescinded by Act VII.*, 1841.

Previous notice to be given by the courts of the day on which a suit is to be brought to a hearing.

XII. *First.* In order that the parties in a suit, or their authorized pleaders, may be fully prepared to file their exhibits, and to name their witnesses, as well as to furnish any explanations of the case which may be required at the time when the suit may first be brought to a hearing, the several courts are enjoined carefully to attend to those provisions in the regulations which require that eight days' previous notice shall be given to the parties of the day on which the court may propose to bring the suit to a hearing.

A notification of the day duly affixed in the cutcherry shall be sufficient notice.

Second. For this purpose it shall be sufficient for the court to affix, in some conspicuous place in the court-room, a notification specifying the number of the suit, the names of the parties and of the vakeels respectively entertained in the suit, together with the date on which it may be intended that such suit shall be brought to a hearing before the court, and such notice shall be held and considered to be in force until the suit can be brought to a hearing, either on the day fixed or any subsequent day.

Courts authorized to fine parties who may not be prepared to file exhibits or to name their witnesses on the day notified for the hearing of the suit

Third. If either of the parties in a suit which may be brought to a hearing, after due notice shall have been given in the manner above prescribed, shall not be prepared to file his exhibits, or the names of his witnesses, or to furnish any explanations of the case which may be required by the court, and shall not assign sufficient and satisfactory reason for the delay, the courts are authorized to impose upon such party such fine as may appear just and proper; provided that the fine shall in no instance exceed one-fourth *of the fee paid on the institution of the suit,* or of the amount of the stamp-duty substituted for such fee. If a similar neglect shall occur a second time after due notice shall have been given of the day fixed for the case being again brought forward, the courts are authorized either to impose a second fine under the limitation above prescribed, or to proceed as in other cases of default.

Further penalty on a repetition of similar neglect.

Additional rules regarding security furnished in civil suits

XIII. *First.* The following provisions are enacted in addition to the rules now in force regarding the security to be required from parties for the execution of decrees of the Civil Courts, or for staying the execution of judgments in the civil suits during an appeal in such suits.

Sureties prohibited from transferring their rights in any immovable property on which their security may have been accepted.

Second. All persons who may enter into security-bonds for the purposes mentioned in the preceding clause, are prohibited from transferring, or from causing to be transferred by sale, gift, mortgage, or otherwise, any land or other immovable property belonging to them, and specified in the schedule of property on which their security may have been accepted, until the object of their security shall have been completely fulfilled.

Explaining the purport and intent of the foregoing prohibition.

Third. This prohibition, however, shall not be construed to affect the legality of any private transfer or mortgage of such property, in cases in which the amount of any demand on the surety which may eventually arise under the terms of the security-bond, shall be duly discharged by him; but it is hereby declared, that no private transfer or mortgage of such property which may be made by a surety, in the interval between the execution of the security-bond and the final and complete enforcement of the judgment, shall be considered to bar the prior right of the court to hold the whole or any part of such property answerable in the first instance for the amount of any demand upon it, which may eventually arise under the terms of the security-bond, and which may not be duly discharged by the surety.

See also Sec. xiv., Act VII., 1843.

XIV. *First.* Such parts of the regulations as are construed to require that the decrees passed in civil suits shall be executed and enforced by the courts without any application for that purpose from the parties, are hereby declared subject to the following modifications.

Modification of existing rules regarding the execution of decrees.

Second. The execution of decisions passed by village punchayets and district punchayets which may be required to be carried into effect by the zillah judge under Regulations V. and VII., of 1816, shall be subject to the modifications of this section.

Under what rules the decrees of Village and District Punchayets are to be enforced.

Third. Decrees which may be passed by the *Zillah* Courts, the *Provincial* Courts, or the Sudder Adawlut, on regular suits or appeals, previously to the time when this regulation shall begin to take effect, shall be executed by those courts according to the provisions of the regulations heretofore in force, and in the same manner as they have hitherto been enforced.

Decrees passed previously to this regulation being in force to be executed under the rules heretofore in force.

Fourth. The *Zillah Courts, the Provincial Courts,* and the Sudder Adawlut, shall not be required to carry into execution any decree which may be passed in original suits or in appeals from and after the first day of February, 1817, except in conformity with the following rules and provisions.

Courts not bound to execute decrees from and after the 1st of February, 1847, except in conformity to the following rules.

Fifth. Any party who may be desirous of obtaining the execution of a decree passed from and after the first day of February, 1817, shall appear, either in person or by an authorized pleader, before the court by whom such decree may have been passed, [*or if the decree shall have been passed by a sudder ameen, before the zillah judge,*] and shall present a petition written on the stamped paper prescribed in Section XX., Regulation XIII. of 1816, praying for the execution of the decree.

Parties desiring to have their decree enforced to present a petition to the court.

Sudder ameens have authority to execute their own decrees under Sec. xxv., Act VII., 1843.

Sixth. The petition shall state the number of the suit, the names of the parties, the date and substance of the decree, whether any appeal has been preferred or admitted from the decision, and whether any and what adjustment of the matter in dispute has been made between the parties subsequently to the decree; it shall further contain a statement of the specific amount due to the petitioner under the decree, whether on account of costs of suit or otherwise, and the name of the individual or individuals against whom the enforcement of the decree is solicited.

What the petition is to contain.

Seventh. The court, after causing the purport of the petition to be compared with the decree contained in the original record of the suit, shall proceed to execute the same, in conformity with the provisions which are now in force or which may be hereafter enacted.

The court how to proceed in the execution of the decree.

Eighth. Provided, however, that if the suit shall have been tried ex parte, or that an interval of more than one year shall have elapsed between the date of the decree and the application for its execution; or that the enforcement of the decree shall be solicited against individuals being heirs or representatives of the original parties in the suit, or against one only of several individuals equally affected by the decree; or if there shall appear reason to believe that the matter in dispute has been adjusted by the parties subsequently to the decree, either by the voluntary surrender of the thing adjudged or by the payment of the sum decreed either in whole or in part, by instalments or otherwise, it shall be competent to the court, instead of proceeding to the immediate enforcement of the decree, to issue a notice to the party against whom execution may be sued out, requiring him to shew cause within a limited period, to be fixed by the court, why the decree should not be executed against him. If, upon such notice, the party

In certain cases specified, the court to make previous inquiries and to pass such orders as may appear just and proper with regard to the execution of the decrees.

shall not attend in person or by vakeel, or shall not shew sufficient cause to the satisfaction of the court why the decree should not be forthwith executed, the court will cause the judgment to be satisfied according to the rules in force. If the party shall attend in person or by vakeel, and shall offer any objection to the enforcement of the decree, the court shall issue such order, after a due consideration of the circumstances of each case, as may appear just and proper.

Provisions for recovering costs due to Government, and vakeels' fees, and for executing decrees in pauper suits.

Ninth. The preceding rules shall not be construed to prevent the courts from issuing process of execution for the purpose of recovering any fees or costs which may be due to Government, [*or any fees due to vakeels by a party in a suit,*] whether decided before or after the first day of February, 1817. In such cases, as well as in suits in which a party may have been allowed to plead in formâ pauperis, the court shall proceed, without any application from the parties, to enforce execution of the judgment, so far as relates to the recovery of the amount of fees or costs due to Government, [*or to pleaders in the suit.*]

See Act I, 1846

See Sec ix, Reg.VII, 1818

Rescinding of provisions requiring all orders and processes of the courts and registers of records to be written and printed in the Persian language

XV. *First.* Such part of Section XXI., Regulation III. of 1802, and such other provisions of the regulations as require all orders and processes of the courts to be written or printed in the Persian language, and such part of Section IV., Regulation XIII. of 1802, as requires the keepers of the records to keep a register, in the Persian language, of all the proceedings, documents, and other records belonging to the courts to which they may respectively be attached, are hereby rescinded.

Decrees by the different Courts of Judicature to be written in English, *and translation of the current language of the district to be annexed to them*

Second. The decrees passed by the *Zillah and Provincial Courts* and by the Court of Sudder Adawlut shall be written in English, [*and shall have annexed or subjoined to them a translation in one of the current languages of the country.*]

Repealed by Sec. 1, Act XXXV, 1837

Orders on miscellaneous petitions presented to the *Zillah* Courts to be written in the current language of the district, and English translations to be furnished on special application.

Third. The orders passed on miscellaneous petitions presented to a *Zillah* Court shall be written in the current language of the district in which such court is stationed; and English translations of such orders shall be furnished on the special application of the parties presenting the petitions.

Orders passed on petitions by the *Provincial* Courts and Sudder Adawlut to be written in English, and a translation in one of the current languages of the country to be annexed.

Fourth. The orders passed on petitions presented to the *Provincial* Courts or to the Court of Sudder Adawlut shall be written in English, and shall have annexed or subjoined to them a translation in one of the current languages of the country.

Processes to be written or printed in one of the current languages of the country

Fifth. The summonses and other processes issued by the several courts shall be written or printed in one of the current languages of the country.

The country language in which the processes, &c. are to be written must be the one most familiar to the parties, and any party preferring a Persian translation to be furnished therewith.

Sixth. It is to be understood that the country language in which the processes, orders, and decrees are to be written, or into which they are to be translated as above directed, shall be the language most familiar to the party or parties concerned; and if a party shall be desirous of having a Persian translation of a decree or order, instead of a copy or translation thereof in one of the current languages of the country, the court passing the decree or order shall comply with his application to that effect.

A.D. 1817. REGULATION I.

A REGULATION *for modifying certain Parts of Regulation IV.*, 1812: PASSED *by the Right Honourable the Governor in Council of Fort St. George, on the* 20*th January*, 1817.

[Rescinded by Section II., Regulation VI., 1819.]

A.D. 1817. REGULATION II.

A REGULATION *for suspending, for a certain Period, the Operation of Regulations XIII., XIV., and XV. of* 1816, *and for re-establishing certain Stamp-Duties abolished by the first of those Regulations:* PASSED *by the Right Honourable the Governor in Council of Fort St. George, on the* 20*th January*, 1817, *corresponding with the* 10*th Tai of the year Dhatu,* 1738*th year of Saliwahana, and with the* 31*st Safar*, 1232 *Hijra.*

Preamble.

As the stamps described in Clause First, Section V., Regulation XIII., 1816, cannot be prepared so that the new stamped paper may be transmitted to the several districts under this Presidency by the period fixed for that regulation to take effect; as many of the provisions of Regulations XIV. and XV. of 1816 are dependent on the operation of Regulation XIII. of 1816; and as it is found expedient to continue the stamp-duties established under the provisions of Section II., Regulation VIII. of 1808, and Sections XIII., XIV., and XV. of Regulation II. of 1813, and abolished under the provisions of Section II., Regulation XIII. of 1816, the Governor in Council has been pleased to enact this regulation.

Certain provisions of former regulations rescinded.

II. Regulations IV., V., VIII., and XVII. of 1808, Section XXXV., Regulation VII. of 1809, and Regulation II. of 1813, and generally all rules at present in force respecting the duties levied by means of stamped paper and stamped cadjans, and regarding the fees to be paid on the institution of suits on exhibits, and on summonses for witnesses, shall continue in force till the 12th of July, 1817, and from and after that date shall be rescinded.

Regulations XIII., XIV., and XV. of 1816, not to be in force until the 12th of July, 1817

III. The operation of Regulations XIII., XIV., and XV. of 1816 shall not commence until the 12th of July, 1817, from which day they shall be in force.

Additional rules to be in force from the same date.

IV. The following rules shall be in force from and after the 12th of July, 1817.

Stamped paper to be used for rowannahs.

V. *First.* For all rowannahs permitting the transportation or carriage of any goods (salt and rice only excepted), to which the seal and signature of any of the collectors of customs in the provinces subject to the presidency of Fort St. George, or their officers, are or may be required to be affixed, stamped paper shall be used, and the parties obtaining them shall pay for it at the following rates.

Rates of stamps on rowannahs.

If the value of the goods shall not exceed ten rupees, one anna.
If above ten, and not above fifty rupees, four annas.
If above fifty, and not above one hundred and fifty, eight annas.
If above one hundred and fifty, and not above three hundred, one rupee.
If above three hundred, and not above a thousand, two rupees.
If above a thousand, and not above five thousand, four rupees.
If above five thousand, and not above ten thousand, ten rupees.
If above ten thousand rupees, twenty rupees.

Stamped paper not required for rowannah chittees or teerwa chittees.

Second. Stamped paper shall not be required for exchanged rowannahs and rowannah chittees, or teerwa chittees or passes.

Stamped paper not required for rowannahs for the Company's goods.

Third. Stamped paper shall not be required for rowannahs granted for goods provided for the Company's investment.

VI. [What stamps required for abkary licenses.]—*Rescinded by Section VI., Regulation II.*, 1825.

Stamped paper to be used for tobacco licenses.

VII. Stamped paper shall be used for all licenses for the retail sale of tobacco which may be granted in the provinces of Malabar, Canara, and Coimbatore, and the parties obtaining them shall pay for it at the following rates: viz.

Rates of stamps on tobacco licenses.

Two annas if the annual average sales do not amount to three maunds
Four annas if they amount to three, but not to nine maunds.
Eight annas if they amount to nine, but not to fifteen maunds.
One rupee if they amount to fifteen maunds.

VIII. [Blank stamps not usable on the 12th July, 1817, may be returned, and drawback will be allowed.]—*Extinct.*

A.D. 1817. REGULATION III.

A REGULATION *for explaining and modifying certain Provisions of Regulations IX., X., and XI. of* 1816: PASSED *by the Right Honourable the Governor in Council of Fort St. George, on the* 3*rd February*, 1817, *corresponding with the* 24*th Tai of the year Dhatu*, 1738*th year of Saliwahana, and with the* 15*th Rabi-ul-awal*, 1232 *Hijra.*

Preamble.

WITH the view of removing certain doubts concerning the degree of communication between the criminal judge and the magistrate, permitted under the provisions of Regulations IX. and X. of 1816, and of obviating

the public inconvenience and other evils which in cases of emergency might result from the want of authority in the criminal judge to command the services of the police during the absence of the magistrate and of his assistant, the Governor in Council has passed this regulation.

The *criminal judge* may call for such documents as are deficient

A full and free communication to take place between *criminal judges* and magistrates on all subjects connected with their duties

II. The *criminal judge* may call for any documents required to be transmitted to him by the magistrate under Section XXV., Regulation IX. of 1816, or by a police officer under Section XXVII., Regulation XI. of 1816, which may not be so transmitted. And it is hereby declared, that nothing in the existing regulations is intended to prohibit a full and free communication between the *criminal judge* and the magistrate on all subjects connected with the discharge of their respective duties in those capacities.

Criminal judge authorized to act for the magistrate in certain cases.

See Sec XIV, Reg VIII, 1827

III. In any case requiring the immediate interference of the magistracy, when there may not be a magistrate or assistant magistrate present at the zillah station, it shall be competent to the *criminal judge* to do all acts necessary for preserving the public peace or securing public offenders, which it would be competent to the magistrate in such case to do; and it shall be the duty of all police officers to afford him the most prompt and effectual aid.

A.D. 1817. REGULATION IV.

A REGULATION *for rescinding Regulation V. of* 1812, *and reviving the Jurisdiction of the Zillah of South Malabar over the Town of Cochin and its Dependencies:* PASSED *by the Right Honourable the Governor in Council of Fort St. George on the* 17*th February*, 1847.

[Superseded by Regulation I., 1821, and Sections I. and LIII., Act VII., 1843.]

A.D. 1817. REGULATION V.

A REGULATION *for providing a Succession of Hindoos and Mahomedans duly qualified to be employed as Law Officers, and as Vakeels in the Courts of Adawlut, under the Presidency of Fort St. George:* PASSED *by the Right Honourable the Governor in Council, on the* 19*th May*, 1817.

[Rescinded by Act XXVII., 1836.]

A.D. 1817. REGULATION VI.

A REGULATION *for declaring the Provisions of Section IX., Regulation XIII. of* 1816, *not applicable to Deeds and Instruments executed previously to the* 12*th of July*, 1817, *and for reviving the Operation of Regulation VIII. of* 1808, *and Regulation II. of* 1813, *with respect to Deeds and Instruments executed between the* 1*st of January*, 1809, *and the* 12*th of July*, 1817: PASSED *by the Governor in Council of Fort St. George, on the* 30*th September*, 1817, *corresponding with the* 17*th Pratasi of the year Iswara*, 1739*th year of Saliwahana, and with the* 18*th Zilkada*, 1232 *Hijra.*

Preamble.

WHEREAS it is enacted by Section IX., Regulation XIII. of 1816, that from and after the period fixed for the operation of that regulation, no deeds or instruments of the several descriptions enumerated in the said section shall be received or filed in any Court of Judicature, unless the same shall have been written on paper or other material bearing the prescribed stamp; and whereas it is expedient to declare that the provision above recited is not intended to affect any deeds or instruments executed prior to the date on which Regulation XIII. of 1816 commenced operation; and also to restore the law to its former state with respect to all deeds and instruments executed between the 1st of January, 1809, and the 12th of July, 1817, the Governor in Council has enacted the following rules.

Section IX., Regulation XIII., 1816, not applicable to deeds executed before the regulation took effect.

II. It is hereby declared that the provisions of Section IX.,* Regulation XIII. of 1816, are not intended to apply to any deeds or instruments executed prior to the 12th of July, 1817.

* Rescinded by Sec. ii., Reg II., 1825.

Former stamp regulations revived with respect to deeds executed while they were in force.

III. In modification of such part of Section II., Regulation XIII. of 1816, as rescinds Regulation VIII. of 1808, and Regulation II. of 1813, it is hereby enacted that the provisions of those regulations shall still be applied to all deeds and instruments executed between the 1st of January, 1809, and the 12th of July, 1817.

A.D. 1817. REGULATION VII.

[FRAMED UPON REGULATION XIX., 1810, OF THE BENGAL CODE.]

A REGULATION *for the due Appropriation of the Rents and produce of Lands granted for the Support of Mosques, Hindoo Temples and Colleges, or other public Purposes; for the Maintenance and Repair of Bridges, Choultries, or Chuttrums, and other public Buildings; and for the Custody and Disposal of Escheats:* PASSED *by the Governor in Council of Fort St. George, on the* 30*th September,* 1817, *corresponding with the* 17*th Pratasi of the year Iswara,* 1739*th year of Saliwahana, and with the* 18*th Zilkada,* 1232 *Hijra.*

Preamble

WHEREAS considerable endowments have been granted in money, or by assignments of land, or of the produce, or portions of the produce of land, by former Governments of this country, as well as by the British Government, and by individuals for the support of mosques, Hindoo temples, colleges, and choultries, and for other pious and beneficial purposes: and whereas there are grounds to believe that the produce of such endowments is, in many instances, appropriated contrary to the intentions of the donors, to the personal use of the individuals in immediate charge and possession of such endowments: and whereas it is the duty of the Government to provide that all such endowments be applied according to the real intent and will of the grantor: and whereas it is moreover expedient to provide for the maintenance and repair of bridges, choultries, chuttrums, and other buildings, which have been erected, either at the expense of Government or of individuals, for the use and convenience of the public; and also to establish proper rules for the custody and disposal of escheats—the following rules have been enacted, to be in force from the date of their promulgation throughout the provinces immediately dependent on the Presidency of Fort St. George.

The general superintendence of all endowments in land or money, granted for the support of mosques, &c., and of bridges, choultries, and other public buildings, vested in the Board of Revenue.

II. The general superintendence of all endowments in land or money granted for the support of mosques, Hindoo temples or colleges, or for other pious and beneficial purposes, and of all public buildings, such as bridges, choultries, or chuttrums, and other edifices in the several provinces dependent on the Presidency of Fort St. George, is hereby vested in the Board of Revenue.

The Board to take measures for the due appropriation of such endowments, and for the due repair of public edifices.

III. It shall be the duty of the Board of Revenue to take such measures as may be necessary to ensure that all endowments made for the maintenance of establishments of the description above mentioned, are duly appropriated to the purpose for which they were destined by the Government, or the individual by whom such endowments were made. In like manner it shall be the duty of that Board to provide, with the sanction of Government, for the due repair and maintenance of all public edifices, which have been erected at the expense either of the former or present Government, or of individuals, and which either are, or can be, rendered conducive to the convenience of the community.

Buildings fallen to decay, or not calculated to be useful if repaired, how to be disposed of.

IV. In those cases, however, in which any of the buildings specified in the preceding section have fallen to decay, and cannot be conveniently repaired, or are not calculated, if repaired, to afford any material accommodation to the public, the Board of Revenue shall submit to Government their opinion as to the most expedient mode of disposing of such buildings; and they shall be sold on the public account, or otherwise disposed of, as the Governor in Council may determine.

The Board to prevent endowments in land or money and public edifices from being appropriated by individuals to private uses.

V. Under the foregoing rules, it will be incumbent on the Board of Revenue to prevent any endowments in land or money, which have been granted for the support of establishments of the above description, or any public edifices, from being converted to the private use of individuals, or otherwise misappropriated.

The general superintendence of escheats vested in the Board of Revenue.

VI. The general superintendence of all escheats is likewise hereby vested in the Board of Revenue, who will, through the channel hereafter mentioned, inform themselves fully of all property of that description, and submit to Government their opinion as to the most expedient mode of disposing thereof, and the same shall be sold on the public account, or otherwise disposed of as the Governor in Council may determine.

Local agents to be appointed, to enable the Board to carry into effect the duties hereby intrusted to them.

VII. To enable the Board of Revenue the better to carry into effect the duties intrusted to them by this regulation, local agents shall be appointed in each zillah, subject to the authority, control, and orders of that Board.

The collector of the zillah to be ex officio an agent, with such others as may be deemed expedient.

VIII. The collector of the zillah shall be ex officio one of those agents, and the Governor in Council, when he deems it necessary, may appoint any other public officer or officers from the civil, military, or medical branch of the service, to act in conjunction with him.

Such agents to ascertain the particulars of all endowments, buildings, or escheats, and report to the Board of Revenue.

IX. Under the provisions of the present regulation, it will be the duty of the local agents to obtain full information from the public records, and by personal inquiries, respecting all endowments, establishments, and buildings of the nature of those before described, and respecting all escheats, and to report to the Board of Revenue any instance in which they may have reason to believe that lands or buildings, or the rent or revenues derived from lands, are unduly appropriated, being in all cases careful not to infringe any private rights, or to occasion unnecessary trouble or vexation to individuals.

The agents to ascertain and report the names, &c. of the present trustees or managers of such institutions, and by what authority appointed.

X. The said local agents shall further ascertain and report to the Board of Revenue the names of the present trustees, managers, or superintendents of the several institutions, foundations, or establishments above described, together with other particulars respecting them, and by whom and under what authority they have been appointed or elected, and whether in conformity to the special provisions of the original endowment and appropriation by the founder, or under any general rules or maxims applicable to such institutions and foundations.

The agents to report to the Board of Revenue all vacancies or

XI. The local agents shall also report to the Board of Revenue all vacancies and casualties which may occur, with full information of all

circumstances, to enable that Board to judge of the pretensions of the person or persons claiming the trust, particularly whether the succession has been heretofore by inheritance in the line of descent, or whether the successor has been in former instances elected, and by whom, or whether he has been nominated by the founder, or his heir or representative, or by any other individual patron of the foundation, or by any officer or representative of Government, or directly by the Government itself.

casualties which may occur, with full information as to the pretensions of claimants.

XII. In those cases in which the nomination has usually rested with the Government, or with a public officer, or in which no private person may be competent and entitled to make sufficient provision for the succession to the trust and management, it will be the further duty of the local agents to propose, for the approval and confirmation of the Board of Revenue, a person or persons for the charge of trustee, manager, or superintendent, strictly attending to the qualifications of the person or persons selected, and to any special provisions of the original endowments and foundation, and to the general rules or the known usages of the country applicable to such cases.

The agents to recommend fit persons for the confirmation of the Board of Revenue in cases wherein the right of nomination appertains to Government.

XIII. On the receipt of the report and information required by the preceding clause, the Board of Revenue shall either appoint the person or persons nominated for their approval, or shall make such other provision for the trust, management, or superintendence, as may to them seem right and fit, with reference to the nature and conditions of the endowment, having previously called for any further information from the local agents that may appear to them to be requisite.

The Board to appoint such persons, or make such other provision for the trust as they may deem fit with reference to the conditions of the endowment.

XIV. Nothing contained in this regulation shall be construed to preclude any individual who may conceive that he has just grounds of complaint, on account of any orders which may be passed by any of the before-mentioned authorities, with respect to the appropriation of any lands or buildings, or of any rents and revenues from lands of the nature of those before described, from suing in the mode and form prescribed by the regulations, where Government or public officers are parties, or under the general provisions of the regulations, if the suit be brought against a competitor or other private person for the recovery thereof, in the regular course of law, or for compensation in damages for any loss or injury supposed to have been unduly sustained by him.

Individuals deeming themselves injured by any orders passed under this regulation not precluded from suing for recovery of their rights, or for damages, in the manner prescribed in the regulations.

XV. It is to be clearly understood, that the object of the present regulation is solely to provide for the due appropriation of lands or other endowments granted for public purposes agreeably to the intent of the grantor, and not to resume any part of them, or of their produce, for the benefit of Government. In like manner, it is fully intended that all buildings erected by any former, or the present Government, or by individuals for the convenience of the public, should be exclusively appropriated to that purpose, with the exception of such as have fallen to decay and cannot be conveniently repaired, or which can no longer contribute to the accommodation of the community.

The object of this regulation is solely to provide for the due appropriation of endowments granted or buildings erected for public purposes.

XVI. The legislative provisions now in force, or which may hereafter

Native servants, trustees, managers, or su-

perintendents guilty of fraud or embezzlement, how to be punished.

be enacted for the punishment of fraud or embezzlement in the native servants of Government employed under the collector in the department of Land Revenue, shall be held applicable to all native servants, and to all trustees, managers, or superintendents employed in, or charged with, the settlement, custody, or appropriation of the revenues, funds, or other property of the public institutions referred to in this regulation.

A.D. 1817. REGULATION VIII.

[FRAMED UPON REGULATION XV., 1816, OF THE BENGAL CODE.]

A REGULATION *for expediting the Trial of civil Suits in which the native Officers and Soldiers attached to regular Corps on the Military Establishment of the Presidency of Fort St. George may be Parties, and for giving to them certain Facilities in the Maintenance and Recovery of their Rights, Claims, and Interests:* PASSED *by the Governor in Council of Fort St. George, on the 9th December,* 1817, *corresponding with the 26th Kartiki of the year Iswara,* 1739*th year of Saliwahana, and with the 29th Muharram,* 1233 *Hijra.*

Preamble.

WHEREAS the native officers and soldiers on the military establishment of the Presidency of Fort St. George are liable to be stationed at places remote from their homes and families; and whereas the impracticability of granting to such native officers and soldiers frequent or prolonged leave of absence from their military duties, has caused to them material difficulty and embarrassment in maintaining and recovering their just rights, claims, and interests; and whereas the fidelity and courage exhibited by the native troops in various wars on the continent of India, and the zeal and alacrity which they have uniformly displayed in voluntarily embarking on foreign expeditions, entitle them to the favourable consideration of Government—the Governor in Council, with the view of manifesting his sense of their good conduct, and of affording to them every facility in the maintenance and recovery of their rights, claims, and interests, which can be granted, consistently with a due regard to the fundamental principles established for the administration of civil justice and for the collection of the land-revenue, has enacted the following rules, to be in force from the period of their promulgation throughout the territories dependent on the Presidency of Fort St. George.

Provisions of certain regulations modified.

II. Such parts of the regulations in force as prohibit the Courts of Civil Justice from corresponding by letter with parties in depending suits, or direct that no pleadings shall be received in any civil cause except from the parties or their authorized pleaders; such parts of the regulations in force as require generally that depending causes shall be brought to trial according to the order in which they may stand on the file; and such parts

thereof as prohibit the courts from furnishing copies of decrees, or from receiving mokhtarnamahs on any other paper than the prescribed stamped paper, are hereby declared to be subject to the modifications contained in the following sections of this regulation.

Native officers and soldiers may appoint attorneys to transact business for them in the *Provincial* and *Zillah* Courts.

III. *First.* Whenever a native officer or soldier on the military establishment of the Presidency of Fort St. George shall be desirous of instituting a regular or summary suit in any *Zillah* or *Provincial* Court, and shall not be able to obtain a furlough or leave of absence for the purpose of superintending or conducting such suit in person, he shall be at liberty to execute a mokhtarnamah or power of attorney, drawn up according to the Form No. 1 in the Appendix to this regulation, authorizing and appointing any member of his family or other person to institute and carry on the suit, and to perform all acts in the original trial of the cause, and eventually in appeal, in the same manner as if the party were himself personally present and consenting.

The mokhtarnamah not to be on stamped paper.

Second. Such mokhtarnamah shall not be required to be written on stamped paper, but shall be executed by the native officer or soldier in the presence of the commanding officer of the corps or detachment to which he may belong, who shall countersign the same in testimony of its having been voluntarily executed.

The mokhtarnamah to be transmitted in a prescribed form by the commanding officer of the party to the court.

Third. The mokhtarnamah so executed is to be transmitted by the commanding officer under cover of a public letter, drawn up in the Form No. 2 of the Appendix, addressed to [*the register of*] the court in which the suit is to be instituted; and upon the receipt of such letter, a notice shall be issued by the court for the purpose of procuring the attendance, either personally or by a constituted vakeel, of the person nominated in the mokhtarnamah.

If the person nominated decline, or be unable to act, information thereof to be communicated by the court in a prescribed form.

Fourth. If such mokhtar shall refuse to attend the court in person, or by a constituted vakeel, or shall decline to undertake the trust, or having undertaken it shall subsequently die, or be prevented by any sufficient cause from discharging the duty confided to him, the court shall cause information of the same to be communicated to the native officer or soldier, by an extract from their proceedings enclosed in an official letter to be addressed to the commanding officer of the corps.

The mokhtarnamah to be filed of record.

The suit to be tried under the general regulations.

If the party be not present, copy of the decree how to be communicated to him.

Fifth. If the appointed mokhtar shall attend the court in person, or by a constituted vakeel, and shall consent to undertake the duty confided to him, the original mokhtarnamah shall be deposited in the court, and shall form part of the record of the cause. The suit shall be instituted, tried, and determined in conformity with the general rules in force for the institution and trial of other similar suits; provided, however, that in all cases where the native officer or soldier who may be the principal in the suit shall not be himself present at the time of its decision, an authenticated copy of the decree, written on unstamped paper, shall be transmitted by the court to the commanding officer of the corps or detachment, for the purpose of its being communicated to the native officer or soldier.

These provisions not applicable to claims originating in loans or commercial transactions.

Sixth. It is hereby explained, that no part of the preceding clauses, or of the subsequent provisions of this regulation, is intended to be applicable to claims originating in loans granted by a native officer or sepoy, or in pecuniary transactions of a commercial nature.

Rules to be observed with the view of obviating the necessity of ex parte trials in causes wherein native officers or soldiers are defendants.

IV. *First.* For the purpose of insuring the due communication to all native officers and sepoys of the summons or other notice of the institution of suits against them, so as to prevent, as far as possible, such suits from being brought to trial ex parte, it is hereby enacted, that in all such suits the plaint or petition of appeal shall contain a declaration, that the defendant or respondent is a native officer or soldier; and all plaintiffs or appellants who shall knowingly and intentionally omit to make such statement, are hereby declared liable to be fined in such sum as the court before whom such pleadings may be filed shall deem equitable, not exceeding one-fourth of the institution-fee or stamp-duty in each case; and it is further provided, that the plaintiff or appellant shall state in his plaint or petition of appeal, to the best of his knowledge or belief, the particular regiment or corps to which such native officer or sepoy may belong, or in the event of his being unable to specify the same, then it shall be the duty of the court before whom the suit is filed to endeavour to ascertain the point.

A notice in the usual orm to be transmitted o the commanding officer.

Second. A notice in the usual form, together with a copy of the plaint or petition of appeal on unstamped paper, enclosed in an official letter, drawn up according to the Form No. 3 of the Appendix, shall be then transmitted by the court to the commanding officer of the corps, for the purpose of their being communicated to the native officer or soldier against whom the suit may have been instituted; a similar notice shall be issued, when omitted in the first instance from ignorance of the defendant's being a native officer or soldier attached to a regular corps, if at any subsequent period during the trial of the suit it should appear to the court that the defendant or respondent is a native officer or soldier as above described.

The commanding officer, on receipt of the notice, will cause it to be duly served.

Third. The commanding officer shall, if practicable, cause the notice to be served on the party to whom it is addressed, and shall then return it to the court from whom it issued, with the written acknowledgment of the party endorsed thereupon, together with the mokhtarnamah, according to the Form No. 1 in the Appendix, if the party should have appointed an attorney to defend the suit in his behalf. If from whatever cause the notice transmitted to the commanding officer cannot be served upon the native officer or soldier to whom it is addressed, it shall be returned by the commanding officer to the court from whom it had been received, with information of the cause which had prevented the service of it. In such case of non-service of process, the court shall make such further reference, or shall adopt such other measures in order to the due service of such process, as may appear to be proper and consistent with the regulations.

The court how to proceed if the notice cannot be served.

Communications to be made by commanding officers of leave of absence granted to native officers or soldiers to enable them to conduct their own suits.

V. *First.* When a native officer or soldier may obtain a furlough for the purpose of instituting or defending a civil suit in any of the *Zillah* or *Provincial* Courts, he shall be furnished, by the commanding officer of the corps or detachment, with an official letter addressed to the [*register of*] the court in which the suit is to be tried; such letter shall be drawn up according to the Form No. 4 of the Appendix to this regulation, but it shall not give cover to any petition, nor contain any statement or explanation of the merits or circumstances of the case.

The court authorized to nominate a vakeel on behalf of the native officer or soldier.

Second. Such letter shall be delivered in person by the native officer or soldier to the court, who are hereby authorized, at the request of the

party, to nominate a vakeel of the court to aid in preparing the pleadings, and generally in conducting the prosecution or defence of the suit. The court shall at the same time cause the native officer or soldier to be duly apprized of the provisions contained in Regulation XIV. of 1816, and in any other regulation in force relative to the duties and established fees of pleaders, and of the necessity of conforming thereto in the event of his employing a pleader.

A native officer or soldier not prohibited from pleading in person or appointing their own pleaders.

VI. Nothing contained in the preceding section shall be construed to prohibit a native officer or soldier from pleading his cause in person, or from employing any authorized pleader of the court, instead of applying to the court to nominate a vakeel to act on his behalf.

Suits instituted under this regulation to be tried forthwith.

VII. *First.* The *Zillah* and *Provincial* Courts are hereby authorized and required to bring to a hearing, without regard to the order in which they may be filed, all suits in which a native officer or soldier who may have obtained leave of absence from his corps may be a party, and to pass a decision thereon as speedily as may be consistent with the due administration of justice.

The court may extend the officer's or soldier's leave of absence under certain rules.

Second. If the cause cannot be brought to a decision previously to the expiration of the furlough granted to such native officer or soldier, the court before whom the suit may be depending is hereby vested with a discretionary authority to grant to such native officer or soldier an extension of his leave of absence, for a period sufficient to admit of a reference being made to the commanding officer of the corps, for the purpose of ascertaining whether the furlough can be prolonged for any further specific period. But whenever a judge [*or register*] may exercise the discretionary power above vested in him, he shall be careful to make the reference immediately, in an official letter to the commanding officer of the corps to which the native officer or sepoy may be attached.

Native officers or soldiers quitting the court station before the determination of the suits may appoint attorneys in their behalf.

Third. A native officer or soldier returning to his corps before a final decision has been passed in his suit shall be at liberty to leave the further conduct of the suit either to a mokhtar, duly constituted under a mokhtarnamah executed according to the Form No. 1 in the Appendix to this regulation, or to one or more of the established pleaders of the court, empowered to act for him by a regular vakalutnamah.

Notice to be given whenever land or other real property belonging to a native officer or soldier is attached by courts.

VIII. Whenever any land or other real property belonging to a native officer or soldier may be attached by a court of justice, for the purpose of realizing the amount of any judgment, fine, or penalty imposed on such native officer or soldier, the court shall cause notice of the same to be issued in the manner prescribed in Clause Second, Section IV. of this regulation, and shall postpone the sale for such definite period as may appear reasonable, for the purpose of affording an opportunity to the native officer or soldier to discharge the amount of the judgment, fine, or penalty.

Proprietors of malguzary estate, being native officers or soldiers, may register themselves as such on application to the collector.

X. *First.* Any registered proprietor of an estate paying revenue to Government, who may be entertained as a native officer or soldier on the military establishment under the Presidency of Fort St. George, shall be at liberty to notify to the collector the rank which he may hold and the designation of the corps to which he may be attached. A record of such

notification shall be inserted by the collector in the public registers and accounts relative to the estate and its assessment; and in cases in which the estate, or a portion of the estate, of a native officer or soldier who may have made such notification, shall become liable to public sale for the recovery of an arrear of revenue, the collector shall address an official letter to the commanding officer of the corps, drawn in the form prescribed in No. 5 of the Appendix to this regulation, and shall enclose in such letter a written notice, signed and sealed by himself and attested by the principal native officer on his establishment, specifying the amount of the arrear and the date on which it became due, and requiring that it be paid at the treasury of the collectorship within such limited period of time as, on consideration of the distance at which the corps may be stationed, and other circumstances of the case, may appear to be proper and reasonable.

Collectors how to proceed if such landed property become liable to sale for arrear of revenue.

Second. The commanding officer of the corps shall acknowledge to the collector the receipt of his letter, and shall specify the date on which the notice may have been communicated to the party, or the circumstances which may have rendered it impracticable to make such communication.

The commanding officer how to proceed on receiving the collector's notice.

Third. If the native officer or soldier shall omit to discharge the arrear within the term specified in the notice, the collector shall report the circumstances of the case to the Board of Revenue, transmitting at the same time a copy of the notice and of his correspondence with the commanding officer, and shall be guided in his further proceedings by the orders which he may receive in each case from the board.

Collectors how to proceed in cases where arrears may not be discharged within a specified time.

X. *First.* Nothing contained in this regulation shall be construed to authorize the commanding officer of any corps or detachment to correspond with the civil courts, or with the collectors, regarding the merits of any judgment or order passed by those authorities respectively under the provisions of this regulation.

Commanding officers not to correspond with courts on the merits of cases.

Second. Nothing contained in this regulation shall be construed to modify or to affect the existing rules for the trial of civil suits, in which persons who may have been discharged from the service, or who may be attached to provincial battalions, or to local or irregular corps, or who may be camp-followers or non-combatant retainers of the army, or who may be relations or members of the family of a native officer or soldier, may be parties: the foregoing provisions of this regulation are to be considered as strictly and exclusively applicable to native officers or soldiers who may be entertained in regular corps, and on the actual strength of the army, on the establishment of the Presidency of Fort St. George.

This regulation not applicable to irregular troops.

APPENDIX.

Form No. 1.

I, A. B., inhabitant of the village , talook in the district of , son of , of the caste of , at present [here specify his rank] of the battalion of the regiment, stationed at , having

occasion to institute [or defend] an action for* do hereby nominate and appoint C. D.† to be my attorney [or mokhtar], and I bind myself to abide by whatever he, the said attorney, may do in my behalf in the prosecution‡ [or defence] of the said suit.

The said attorney will either prosecute [or defend] the suit in person, or will appoint one or more of the authorized vakeels of the court to prosecute [or defend] the same under the instructions of the said attorney, as he may think proper. In the event of an appeal being preferred from the judgment passed in the suit, the said attorney is further hereby empowered to act for me on the appeal in like manner as on the original suit.

(Signed)

Executed in my presence,

Comg. Detachment or Bat. or Regt.

* Here insert briefly the nature and object of the suit, and the name of the adverse party or parties.

† Here insert the name, place of residence, caste, and his relationship (if any) to the native officer or soldier.

‡ As the case may be.

FORM No. 2.

To

[*Register of*] the Court of

SIR,—

In conformity with Clause Third, Section III., Regulation VIII., 1817, I have the honour to transmit to you a power of attorney, duly executed in my presence by A. B., son of C. D., of the caste of , inhabitant of , officer or sepoy [as the case may be] of the battalion, regiment.

I am, Sir, &c.

_____,

Comg. Bat. Regt.

FORM No. 3.

To

, Commanding the Battalion, Regt.

at

SIR,—

In conformity with Clause Second, Section IV., Regulation VIII, 1817, I have the honour to transmit you the copy of a plaint filed in case No. in this court, by , against , stated to be an officer [or sepoy] in the corps under your command, together with a notice, which I request you will cause to be served on the said . You are requested to acknowledge the receipt of the notice, and to inform the court whether it has been duly served on the

above-named , or to state the reasons which may have prevented its being served on him.

I am, Sir, &c.,

_____,

Judge Dewanny Adawlut.

FORM No. 4.

[*Register*,]

Zillah, or *City*, or *Provincial* Court.

SIR,—

In conformity with Clause First, Section V., Regulation VIII., 1817, I have the honour to inform you that the bearer of this letter, A. B., son of C. D., of the caste of , inhabitant of , officer or sepoy of the battalion, regiment, &c., has obtained permission to be absent from his corps for the period of months, for the purpose of instituting [or defending] a suit in the *Zillah* or *Provincial* Court of .

I am, Sir, &c.,

_____,

Comg. Bat. Regt.

FORM No. 5.

To ,

Commanding Officer of the Bat. Regt.

SIR,—

I have the honour to inform you that the right of [A. B.] in the village [or estate] of is about to be sold on account of arrears of public revenue for the year .

In conformity with Clause First, Section IX., Regulation VIII., 1817, I herewith enclose a written notice to be communicated to , said to be an officer [or sepoy] in the corps under your command, and who is alleged to be the proprietor [or sharer] of the village or estate in question.

You are requested to acknowledge the receipt of this letter, and to state on what day the notice may have been communicated by you to the said , or the circumstances which may have rendered it impracticable to make such communication.

I am, Sir, &c.,

_____,

Dewanny Adawlut, Judge

A.D. 1818. REGULATION I.

A REGULATION *to provide for the more effectual Administration of Criminal Justice in certain cases, and to alter certain Provisions of the Regulations in force:* PASSED *by the Governor in Council of Fort St. George, on the 28th January,* 1818, *corresponding with the* 17*th Tai of the year Iswara,* 1739*th year of Saliwahana, and with the* 20*th Rabi-ul-aval,* 1223 *Hijra.*

Preamble.

IT having been deemed expedient to vest the Court of Foujdarry Adawlut with discretion to pass sentence of punishment in cases wherein, although the futwah of the law officers may not declare the prisoner to be guilty of the fact or facts charged against him, or liable, on strong presumption, to discretionary punishment, the judges of that court may be of opinion that the proof against the prisoner is sufficient to convict him of the whole or any part of the charge; and it having been also considered expedient to modify the Mahomedan law, as well in cases of zina or whoredom as in cases of kutl-i-khota or accidental homicide; as also to dispense with the process of "godna" in cases of conviction of the crime of perjury, subornation of perjury, or forgery; and further to declare, that all rewards offered for the apprehension of proclaimed robbers shall be payable on the delivery of their persons to the zillah magistrate by whom they may have been proclaimed, or to the magistrate within whose jurisdiction they may have been apprehended, the following rules have been enacted.

In what cases the Court of Foujdarry Adawlut may pass a sentence of conviction and punishment, notwithstanding a futwah of acquittal by the law officers of that court, without requiring a second futwah.

Modified by Act I., 1840.

II.* *First.* In all trials referred to the Foujdarry Adawlut, when the futwah of the law officers of that court may acquit a prisoner of the whole or any part of the charge preferred against him, and two or more judges of that court, on a deliberate consideration of the circumstances of the case in evidence before them, shall concur in opinion that the proof against the prisoner is sufficient to convict him of the whole or any part of the charge, the judges so concurring in opinion, provided the penalty to be adjudged, on proof of the commission of the offence, shall have been specially denounced in any subsisting regulation, are hereby declared competent to convict and sentence the prisoner to suffer the punishment so prescribed by the regulations, in like manner as if he had been declared convicted by the futwah of the law officers.

Cases in which the law officers shall be called upon to give a second futwah.

Second. If the penalty to be adjudged, on proof of the commission of the offence, shall not have been specially denounced by any subsisting regulation, the judges of the Foujdarry Adawlut shall require the law officers to declare, by a second futwah, to what sentence the prisoner would have been liable under the Mahomedan law if he had been convicted by full legal evidence, and shall proceed thereupon to pass sentence

* It is enacted by Act I., 1840, that the Foujdarry Adawlut shall not be required to take a futwah from their law officers in cases referred to that court, but that the Mahomedan law shall not be dispensed with in cases theretofore determinable by that law,—see the Act referred to. The powers of single judges were enlarged by Sec. v., Reg. VIII., 1831, and Secs. xxxiii. and xxxiv., Act VII., 1843.

according to such second futwah, commuting the punishment if any regulation require it.

Rules for the law officers of the *Court of Circuit* in delivering their futwah in trials for offences within the provisions of the Mahomedan law for cases of zina and fiâl-i-shuneea.

III. *First.* In trials before the *Court of Circuit* for adultery, rape, or any other offence within the provisions of the Mahomedan law for cases of zina and fiâl-i-shuneea, the futwah of the law officer of the *Court of Circuit* before which the trial may be held, shall declare only whether the prisoner be legally convicted, or, if not, whether there be strong grounds of presumption that he is guilty of the crime charged against him.

Judge of circuit how to proceed where the futwah shall declare the prisoner legally convicted, or that there is strong presumption of his guilt, and the judge shall concur in the futwah.

Second. If the futwah so given shall declare the prisoner legally convicted, or that there is strong presumption of his guilt, the *judge of circuit*, provided he concur in the opinion declared in the futwah, shall either pass sentence against the prisoner or refer the trial for the sentence of the Foujdarry Adawlut, according as the circumstances of the case shall appear to render it referrible or otherwise under the regulations in force.

Whenever a prisoner may be convicted of the crime of rape, proceedings to be referred to the Foujdarry Adawlut.

Third. If the prisoner be convicted, either on full legal evidence or on strong presumption, of the heinous crime of rape, the *judge of circuit* shall not pass any sentence, but shall refer the trial for the sentence of the Foujdarry Adawlut.

In cases of adultery, charge by whom to be preferred.

Fourth. In cases of adultery, it shall be requisite that the charge be made and prosecuted exclusively by the husband against the wife, or by the wife against the husband.

Rule to be observed in all cases of homicide where there may be proofs of a previous malignant intention.

IV. *First.* After the date fixed for the operation of the penal clauses of this regulation, any person who may be convicted of having, subsequently thereto, deliberately and maliciously intended to murder one individual, and of having, in the prosecution of such intention, caused the death of the person whom he had intended to murder in a manner different from that in which he had intended to cause his death (as where the instrument of perpetration may pass by the person aimed at and kill him on a rebound), or of having accidentally killed another individual, shall be liable to suffer capital punishment, in like manner as if the act had been committed as originally intended by him. In all such cases the *Courts of Circuit*, provided they concur in the conviction of the prisoner, shall transmit their proceedings to the Court of Foujdarry Adawlut, the judges of which court, if they consider the prisoner to be convicted of such murderous intention and subsequent actual homicide, shall require their law officers to declare, by a second futwah, to what punishment the prisoner would have been liable if the homicide had been committed as intended by the prisoner; and if their futwah shall declare him in such case liable to suffer death, or if, under the futwah so given and the modifications of the Mahomedan law contained in the regulations, the prisoner be liable to suffer capital punishment, the Court of Foujdarry Adawlut shall proceed in the case as prescribed by the regulations in force.

Modified by Act 1., 1840

The principle of the preceding rule to be observed in all cases of corporal injury where there may be proof of a previous malignant intention.

Second. In like manner, after the date fixed for the operation of the penal clauses of this regulation, any person who may be convicted of having, subsequently thereto, unlawfully and maliciously intended to wound, maim, or otherwise do corporal injury to one individual, and of having, in the prosecution of such intention, wounded such individual in a manner different from that in which he had intended to wound him (as where the instrument may pass by the person aimed at and wound him on

a rebound), or of having accidentally wounded, maimed, or otherwise corporally injured another individual, shall be held punishable for the act committed by him with such unlawful and malicious intention, in like manner as if such act had been committed as intended by him. The law officers of the *Court of Circuit* shall, in such cases, be required to state the punishment to which the prisoner would have been liable if he had committed the act as intended by him, and the *Courts of Circuit* shall pass sentence accordingly, or refer the trial to the Court of Foujdarry Adawlut, as the case may be referrible or otherwise, under the general regulations.

Procedure of the Court of Foujdarry Adawlut when trials may be referred to that court under the preceding clause.

Modified by Act I., 1840.

Third. In trials referred under the preceding clause to the Court of Foujdarry Adawlut, the law officers of that court shall declare to what punishment the prisoner would have been liable if the act of which he is convicted had been committed as intended by him; and the court, after considering such futwah, with the whole of the circumstances of the case in evidence before them, shall proceed according to the provisions of the general regulations.

Former provisions respecting kutl-i-khota to be in force with regard to all cases of accidental homicide not otherwise provided for by the first clause of this section.

Fourth. The provisions contained in Clause Second, Section XV., Regulation VII. of 1802, regarding kutl-i-khota and other cases of accidental homicide, are to be considered to be in force, as heretofore, with regard to all cases of accidental homicide not coming within the intent and meaning of the first clause of this section; provided, however, that the *Courts of Circuit* shall not adjudge any punishment in any such case of accidental homicide, although the deyut should be declared to be payable under the Mahomedan law, if the homicide shall clearly appear to have been committed by misadventure in the prosecution of a lawful act and without any malignant intention.

Part of Clause Fifth, Section III., Regulation VI. of 1811, rescinded.

V. So much of Clause First, Section III., Regulation VI. of 1811, as relates to the process of "godna" is hereby rescinded.

Modification of part of Section XXII., Regulation IX. of 1816.

VI. In modification of the provisions contained in Section XXII., Regulation IX. of 1816, regarding payment of specific rewards, it is hereby enacted, that all specific rewards, offered for the apprehension of robbers proclaimed by name, shall be payable on the delivery of the persons so proclaimed to the zillah magistrate by whom the proclamation may have been issued, or to the magistrate in whose jurisdiction they may have been apprehended.

Sections II., III., and IV. of this regulation not to be in force until six months from the date of its promulgation.

The remaining sections of this regulation to have immediate operation.

VII. *First.* Sections II., III., and IV. of this regulation shall not be held in force until six months from and after the date of its being enacted and published.

Second. The remaining sections of this regulation are to be in force from the date of its promulgation.

A.D. 1818. REGULATION II.

A REGULATION *for Imposing a Duty on Foreign Salt imported by Sea into any Port or Place within the Limits of the Territories subject to the Presidency of Fort St. George:* PASSED *by the Governor in Council of Fort St. George, on the 4th March,* 1818, *corresponding with the 23rd Masi of the year Iswarah,* 1739*th year of Saliwahana, and with the* 26*th Rabi-us-sani,* 1233 *Hijra.*

Preamble.

WHEREAS it has been deemed expedient, with a view to the improvement and security of the public revenue, to impose a duty on foreign salt imported by sea into any port or place within the territories subject to the Presidency of Fort St. George, the Governor in Council, with the sanction of the Court of Directors of the United Company of Merchants of England trading to the East Indies, and with the approbation of the Board of Commissioners for the Affairs of India, has enacted the following rules, to be in force throughout the aforesaid territories from the period of their promulgation.

Regulation I. of 1805 rescinded, so far as regards the importation of foreign salt by sea.

II. The provisions of Regulation I. of 1805, so far as they may affect the importation by sea of foreign salt, that is to say, salt made out of the limits of the territories subject to the Presidency of Fort St. George, are hereby rescinded.

[*The rest of the regulation repealed by Section II., Act VI.,* 1844.]

A.D. 1818. REGULATION III.

A REGULATION *for Imposing a Duty on Foreign Opium imported by Sea into any Port or Place within the Limits of the Territories subject to the Presidency of Fort St. George, and on Opium exported by Sea from any Port or Place within the said Limits:* PASSED *by the Governor in Council of Fort St. George, on the 4th March,* 1818.

[Rescinded by Section II., Act VI., 1844.]

A.D. 1818. REGULATION IV.

A REGULATION *prescribing Rules for the Assessment and Collection of the Veesabuddy or Tax upon the Profits of Trade, in the Provinces known by the Appellation of the Ceded Districts, or the Zillahs of Bellary and Cuddapah:* PASSED *by the Governor in Council of Fort St. George, on the* 15*th May,* 1818, *corresponding with the* 4*th Chitteri of the year Bahudhanya,* 1740*th year of Saliwahana, and with the* 8*th Jamadi-us-sani,* 1233 *Hijra.*

Preamble.

WHEREAS it has been considered expedient that the settlement of the land revenue in all the provinces subordinate to this Presidency should be made exclusively of certain taxes, which, though hitherto classed and collected therewith, are not derived from the land, but are paid by merchants, tradesmen, artisans, and others, and therefore cannot with propriety be considered as belonging thereto; and whereas the separation of these taxes from the land revenue has taken effect in the provinces known by the appellation of the Ceded Districts, and reports have been received which enabled the Government to provide for the due assessment and collection of the veesabuddy, or tax upon the profits of trade, under the provisions of a regulation prepared as prescribed in Section II., Regulation I., A.D. 1802; wherefore the following rules have been enacted by the Governor in Council, to take effect and be in force in the Ceded Districts from and after the date of their promulgation.

The veesabuddy declared to be payable by all merchants, tradesmen, and others engaged in any mercantile concern.

II. The veesabuddy, or tax upon the profits of trade, as distinguished from the mohturfa, or tax upon the profits of persons exercising manual arts or professions, is declared to be payable by all merchants, traders, shopkeepers, retail dealers, agents of foreign merchants, or others engaged in any mercantile adventure or concern.

The amount of the veesabuddy to be assessed on each zillah, how to be determined.

III. *First.* The aggregate amount of the veesabuddy to be assessed on each province or zillah of the Ceded Districts, shall be determined by the Governor in Council, and shall be regulated as heretofore, with reference to the accounts of exports and imports, the population, the produce and consumption, and the usual profits of trade, combined with a consideration of the general circumstances of the several descriptions of persons liable to the payment of the tax.

The aggregate assessment not to exceed ten per cent. on the income of the contributors.

Second. The aggregate amount to be assessed on each zillah shall be calculated so as not to exceed ten per cent. upon the aggregate income or gains of the whole body of contributors, according to the best estimate which it may be possible to form from the data above mentioned; and the amount, when fixed, shall not be liable to alteration oftener than once in five years.

Not to be altered oftener than once in five years.

The aggregate assessment may nevertheless be revised and modified, provided it be not increased, and may be imposed gradually in-

Third. The provision contained in the latter part of the last clause shall not be considered as precluding the Governor in Council from authorizing a revision or modification of the aggregate assessment during the above-mentioned period of five years, provided that the amount be not

stead of being laid on at once.

increased: and it is also to be understood, that the Governor in Council is at liberty to cause the assessment to be raised gradually to the ultimate standard amount, instead of imposing the whole at once, if such a course of proceeding should be deemed expedient.

The quota to be assessed on each talook, how to be determined.

IV. The quota, or proportion of the aggregate assessment to be imposed on each talook of the respective zillahs, shall be regulated by the collectors, under the orders and subject to the approval of the Board of Revenue.

The distribution of the talook assessment, how to be regulated.

V. The partition or distribution of the amount of the talook assessment among individuals shall be regulated annually by the whole body of contributors, or persons in the talook subject to the payment of the tax.

Merchants and others liable to payment of the veesabuddy to be summoned annually to the talook cutcherry.

VI. *First.* In pursuance of the provision contained in Section V., the merchants, traders, shopkeepers, retail dealers, agents of foreign merchants, and others liable to contribute to the veesabuddy, shall be summoned to assemble, as soon after the commencement of each Fusly year as may be convenient, at the cutcherry of the tahsildar of the talook in which they reside, due notice of not less than fifteen days being given of the time appointed for the meeting.

Course to be pursued in case of the non-attendance of the parties summoned, or in case of their departure without cause before the distribution of the assessment has been adjusted.

Second. If any person liable to the payment of the tax should not appear at the cutcherry of his talook within five days after the time appointed, unless prevented by sickness or other sufficient cause; or if any person, after appearing, should withdraw himself, or depart before the business is finally adjusted, unless compelled by sickness or other sufficient cause, such person's proportion of the assessment or contribution shall be fixed by the other persons present, in the same manner as if he himself had been present; and he shall lose the benefit of the appeal allowed by Section VIII. of this regulation. In case also of non-payment of the tax, the amount shall be recovered from him in the manner hereinafter prescribed for the recovery of arrears of veesabuddy; and moreover, if it should be satisfactorily proved that such person refused to appear, or appearing, departed with a view to obstruct the public business, or to throw impediments in the way of the settlement and adjustment of the tax, he shall be liable to such moderate fine (not exceeding one hundred rupees) as upon investigation of the case it may be judged advisable by the collector to impose; the fine so imposed to be recovered in the manner hereinafter prescribed for the collection of arrears of veesabuddy.

Absentees, without satisfactory cause assigned for their absence, liable to be fined.

Persons unable to give their personal attendance may appoint vakeels.

Third. Nothing contained in the above clause is intended to prevent any person from appointing a vakeel to act for him, in the event of his being prevented, by sickness or any necessary avocation, from giving his personal attendance, or (having attended) in the event of his being obliged, by similar causes, to leave the cutcherry before the settlement of the tax is finally adjusted. In such cases, the person appointed to act as vakeel shall be furnished by his principal with a vakalutnama under his seal and signature, which vakalutnama, being presented to the tahsildar, shall be filed on the records of the cutcherry, and the vakeel so appointed shall be allowed to act in every respect as if he were principal.

Disputes among in-

VII. *First.* All disputes which may arise among the parties liable to

contribute to the veesabuddy in regard to the veesees or shares to be assessed on individuals, shall be decided by referees or arbitrators, in number not less than four nor more than eight, of whom one half shall be nominated by the party disputing the correctness of the amount proposed to be assessed on him, and the other half by the other party concerned in the reference.

dividuals regarding the partition of the assessment, how to be decided.

Second. Each party shall have a right to challenge peremptorily the referees nominated by the other party; and the referees so challenged shall be set aside and others nominated in their stead. The challenges of each party shall be limited to four, six, or eight, according as the number of referees nominated by each under the provisions of the preceding clause of this section shall be two, three, or four; that is to say, the challenges of each party shall be limited in every case to the number of which the arbitration is to consist; and if in any case the challenges of either party shall amount to that number, the selection of referees for the decision of the question at issue between the parties shall devolve upon the tahsildar, whose duty it shall be to take especial care that the persons whom he may nominate for this purpose be totally unconnected with either party. The decision given by the referees so appointed by the tahsildar shall be equally valid as if it had been given by referees nominated by the parties.

Each party allowed to challenge peremptorily the referees nominated by the other.

The number of challenges limited.

Course to be pursued when the challenges of either party amount to the number limited.

Third. In case the votes of the referees upon the question referred for their decision shall be equally divided, and it shall be necessary to appoint an umpire, the tahsildar shall nominate three respectable persons totally unconnected with either party; and the parties shall each be required to reject one of the persons so named, leaving the other to act as umpire, who shall determine the question.

When votes of the referees are equally divided, an umpire to be appointed.

The mode of appointing an umpire.

VIII. *First.* An appeal from the decision of the referees, on any matter whatever connected with the assessment of the veesabuddy, shall lie to the collector, whose especial duty it shall be minutely and carefully to investigate the grounds upon which such decision may have been made, and he shall confirm, reverse, or cause a revisal of the decision, according as the case may in his judgment appear to require.

An appeal to lie to the collector from the decisions of the referees.

Second. Every appeal to the collector from the decision of referees shall be presented in the first instance to the tahsildar of the appellant's talook, within three days from the date on which the decision may have been passed, and no appeal shall be received at a later period, unless a full and sufficient reason for the delay be made to appear. The tahsildar shall grant written receipts to the appellants for all petitions of appeal which may be presented to him, and shall transmit the said petitions to the collector on the same day on which they may be received.

In what manner the appeal is to be made.

Third. The decisions which under Clause First of this section may be passed by the collector on petitions of appeal, transmitted to him agreeably to the provisions of Clause Second of this section, shall be endorsed by the collector on the petitions, together with the grounds of the decisions so passed; and such endorsements shall be attested by the collector's official signature.

The collector's decision to be endorsed on the petition of appeal.

IX. *First.* In cases of corruption, fraud, or contrivance, whereby persons may have procured their share of the assessment to be reduced below

Course to be pursued in cases of corruption, fraud, or contrivance,

whereby the quota payable by an individual is reduced below its just amount.

its just amount, it shall be competent to the party or parties aggrieved by such unjust reduction, to bring the matter by petition under the cognizance of the collector. The petition shall contain a distinct statement of the circumstances of the case, and to it shall be subjoined a list of the witnesses and of the documents by which it is proposed to establish the allegations preferred by the petitioner. The collector shall attentively consider the facts stated, and the nature of the evidence offered in support thereof, and if he shall be of opinion that the matter is deserving of investigation, he shall admit the petition.

Course to be pursued by the collector on admitting a petition in this case.

Second. On admitting a petition under the foregoing clause, the collector shall immediately summon before him the person or persons accused of the corruption, fraud, or contrivance. In cases where the share of the veesabuddy charged to have been reduced below its just amount, shall have been settled by referees under the provisions of Section VII. of the regulation, it shall be the duty of the collector to go into a minute examination of the complaint preferred by the petitioner, hearing the evidence which both parties may have to adduce. But in cases wherein the share objected to may not have been settled in the first instance by referees, the collector shall, with the consent of both parties, and not otherwise, refer the matter for decision to referees or arbitrators to be chosen under the provisions of Section VII. of this regulation, and subject to the same rules.

Course to be pursued when the collector considers the corruption, fraud, or contrivance to be proved.

Third. If on examination of the case, or on consideration of the award of the referees, when that mode of adjudication may be resorted to, the collector shall be of opinion that the corruption, fraud, or contrivance charged is satisfactorily established, he shall declare another apportionment of the assessment, and shall have authority to levy a fine, not exceeding one hundred rupees, from the party or parties guilty of the acts charged, whether they be the persons benefiting by the previous undue apportionment of the assessment, or the referees by whom that apportionment was made.

No time limited for presenting petitions of this nature.

Fourth. The time for presenting petitions of the nature described in Clause First of this section is not limited, but it shall be incumbent upon the petitioner to shew, to the satisfaction of the collector, that he has preferred his complaint as soon as practicable after his detection of the artifices by which he considers himself to be aggrieved.

An appeal to lie from the decision of the collector to the Board of Revenue.

The appeal how to be made.

X. *First.* Persons who may consider themselves aggrieved by the decision of the collector shall be at liberty to appeal therefrom to the Board of Revenue. The petition of appeal shall be presented to the collector, accompanied by the petition bearing the collector's endorsement, as prescribed in Clause Third of Section VIII., and the collector shall forward the same immediately to the Board of Revenue: it is, however, provided, that no person shall be entitled to appeal to the Board of Revenue, unless his petition of appeal be presented to the collector within thirty days after the delivery of the collector's decision on the case, or unless he assign good and sufficient reason for the delay.

An appeal to lie to the Board of Revenue against fines imposed by the collector exceeding twenty-five rupees.

Second. An appeal, subject to the rules prescribed in the preceding clause, shall also lie to the Board of Revenue, against the imposition of any fines, exceeding the sum of twenty-five rupees, levied by the collector under this regulation.

Third. The party appealing to the Board of Revenue shall not be required to appear in person to prosecute his appeal, but shall be at liberty to constitute a vakeel for that purpose.

Parties appealing to the Board of Revenue may appoint vakeels.

XI. The Board of Revenue, after a careful investigation of the grounds upon which the decision of the collector may be founded, shall confirm, reverse, or cause a revisal thereof, as the case may, in their judgment, appear to require; and their decision shall be final.

Course to be pursued by the Board of Revenue in cases of appeal from the decision of the collectors.

XII. After the adjustment of the several veesees or shares payable by individuals shall have taken place, in the manner prescribed, a general statement, signed by the principal merchants, &c. of each village, shall be given in to the tahsildar, who shall forward it to the collector, when the total amount of the tax payable by the talook will be assessed in detail according thereto, and a puttah, under the seal and signature of the collector, delivered to each person, stating the sum which he is to pay, and the proportion which it bears to the total talook assessment.

Rules to be observed after the partition of the assessment shall have been finally adjusted.

XIII. The collection of the revenue derived from the veesabuddy tax shall be made in the same manner as the collection of the land revenue; and in the event of any coercive process being necessary for the recovery of arrears of that tax, or for the recovery of the fines which by this regulation the collector is authorized to impose, the collector shall proceed against the defaulter by distraint and eventual imprisonment, in the same manner as is prescribed by the regulations for the recovery of arrears of land revenue.

Course to be pursued in the collection of the veesabuddy tax, and for the recovery of arrears.

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A.D. 1818. REGULATION V.

A Regulation *for rescinding Regulation I., A.D.* 1814, *and abolishing the Zillah Court of Guntoor:* Passed *by the Governor in Council of Fort St. George, on the* 23*rd May,* 1818.

[Superseded by Regulation I., 1821, and Section I., Act VII., 1843, except the following section.]

II. Regulation I., A.D. 1814, is rescinded.

Regulation I., 1814 rescinded.

A.D. 1818. REGULATION VI.

A REGULATION *empowering Commissioners appointed to institute certain Inquiries into the Conduct of the Servants of Government, European and Native, to take Evidence on Oath, and rendering the Violation of such Oath liable to the Penalties of Perjury:* PASSED *by the Governor in Council of Fort St. George, on the 12th August,* 1818.

[Rescinded by Section II., Regulation VIII., 1822, and again by Section I., Act XIII., 1843, which repealed Regulation VIII., 1822.]

A.D. 1818. REGULATION VII.

[FRAMED UPON REGULATION XXVIII., 1814, OF THE BENGAL CODE.]

A REGULATION *for reducing into One Regulation, with Amendments and Modifications, the several Rules which have been passed for admitting Persons of certain descriptions to sue in the Courts of Civil Judicature as Paupers:* PASSED *by the Governor in Council of Fort St. George, on the 3rd November,* 1818, *corresponding with the 20th Arpesi of the year Bahudhanya,* 1740*th year of Saliwahana, and with the 3rd Muharram,* 1234 *Hijra.*

Preamble.

WHEREAS it has been deemed expedient to modify the rules now in force for admitting persons of certain descriptions to sue in the Courts of Civil Judicature as paupers, those rules having been found to facilitate the institution of groundless and litigious suits; and whereas it is desirable to reduce into one regulation the whole of the provisions relative to persons admitted to sue as paupers, the following regulation has been enacted, to be in force from the 1st January, 1819, throughout the whole of the provinces subject to the Presidency of Fort St. George.

Rescissions.

II. Regulation XIV. of 1802, and Sections XXXIV. and XXXVI. of Regulation VII. of 1809, are hereby rescinded.

Certain persons may sue as paupers before the *European* courts.

III. Persons unable, by reason of their poverty, to defray the expenses of a lawsuit shall be admitted to sue as paupers before the several *Zillah* and *Provincial* Courts and the Sudder Adawlut, under the rules and subject to the restrictions hereinafter specified.

Limitations of pauper suits.

IV. *First.* No persons shall be admitted to sue as paupers under this regulation if the cause of action shall not exceed *eighty** rupees, or if the claim be for damages on account of slander, abusive language, assault, or personal injury, [*or for the recovery of pecuniary penalties incurred by any breach of the regulations.*]

* Substitute ten, under Sec. II., Reg. IV., 1825.

Superseded by Sec. II., Reg. IV., 1825.

Second. [Pauper suits not referrible to native judicatories.]—*Rescinded by Section III., Regulation IV.*, 1825.

V. *First.* Every person desirous of being admitted to plead as a pauper in an original suit shall submit his application under the following rules:

Rules for the admission of paupers to institute original suits.

Second. The applicant shall address himself to one of the constituted vakeels of the court in which he is desirous of suing, and the vakeel, if he be willing to undertake the conduct of the suit, shall draw out a statement containing a declaration of the nature, extent, and grounds of the demand, and the names of the persons intended to be sued. This statement shall be signed by the applicant, and shall have annexed to it a declaration, to be signed by the vakeel, that he has attentively considered the applicant's case, and has carefully perused the documents produced to him in support of it, and that he is of opinion that the suit is (or is not) sustainable.

A statement of the cause of action to be drawn out by a vakeel of the court, with his opinion of the merits of the suit.

See Sec. iv., Reg IV., 1825.

Third. [If the vakeel declare the suit not sustainable, application to be rejected.]—*Rescinded by Section V., Regulation IV.*, 1825, *which empowers the court to admit or reject irrespectively of the vakeel's opinion.*

Fourth. If the opinion of the vakeel shall be that the case is sustainable, the applicant shall present to the court a declaration according to the form in the Appendix (A.), having annexed to it a true and perfect schedule of the property, real and personal, of which he is possessed, with the value thereof. The declaration and schedule shall be subscribed by the applicant, and shall be read in open court and *sworn* to by the said applicant: provided always, that such persons as are by the customs and usages of the country exempted from taking oaths shall be permitted to make the usual solemn affirmation, instead of the oath hereby appointed. And if any person taking the *oath or* affirmation hereby appointed shall thereby commit wilful perjury, and shall be convicted thereof, such offender shall incur the penalties directed by the regulations to be inflicted for the crime of perjury.

If the vakeel declare the suit to be sustainable, applicant to present a declaration on *oath*, with a schedule of property.

See Act V., 1840.

Persons swearing falsely in such matters declared liable to the penalties of perjury.

Fifth. After the declaration and schedule shall have been *sworn* to, the court shall fix a day on which they will admit the applicant to institute his suit as a pauper, unless good cause shall be then shewn against his admission. The day to be so fixed shall be sufficiently distant to admit of the production of evidence by the party complained against, to invalidate the statement of the applicant. And the court shall, immediately after filing of the statement and schedule, cause a copy thereof to be affixed in some conspicuous place in the court-room, and shall issue a notice to the person complained against, which notice shall contain the nature and amount of the demand, and the day on which the applicant will be admitted to enter his suit as a pauper, unless good cause be shewn to the contrary.

See Cl. 3, Sec. v., Reg. IV., 1825.

Proceedings for the admission of the suit.

Unless the applicant's statement or schedule be invalidated.

Sixth. It is hereby declared competent to the vakeel, who has drawn out the application, as well as to the person intended to be sued, to shew cause against the applicant being admitted to the benefit of the pauper regulation.

The plea of poverty may be opposed by the applicant's vakeel and by the person complained against.

Seventh. Objections to an alleged plea of poverty shall be written on stamped paper of the value prescribed by Section X., Regulation XIII. of 1816. The names of the witnesses, who are to prove facts alleged in such objections, are to be mentioned therein; and if the witnesses so named are not in attendance, the court are to summon them on an early day.

Objections to the admission of paupers to be written on stamped paper.

Women of rank may appear by accredited agents.

Eighth. Nothing in this section shall be construed to render it imperative on women, or others of such rank and caste as are by the usages of the country exempted from appearing in Courts of Justice, to appear therein for the purpose of qualifying as paupers, but such persons may appear by an accredited agent.

Rule for hearing and determining upon objections to the alleged poverty of the applicant.

Ninth. On the day fixed, the court shall proceed to hear and determine upon all objections that have been entered by the party intended to be sued, or by the vakeel retained by the applicant, either especially to the truth of the schedule exhibited by the applicant, or generally to his admission to the benefit of the pauper regulation; and the decision thereon by the court competent to admit the application of the person desirous to sue as a pauper shall in all cases be final.

Under what circumstances persons may be admitted to sue in formâ pauperis.

Tenth. If no objections are made to the admission of the applicant to sue as a pauper, or if the objections made shall be deemed insufficient, the court shall take into consideration the amount and value of the property *sworn* to, and if they are of opinion that the applicant could not defray the probable costs of suit without being reduced to great distress, they are to admit him to institute his suit as a pauper.

Persons admitted to sue as paupers to find good security for their appearance.

VI. Every person admitted to sue as a pauper shall, before he be permitted to file any pleading, find two good and sufficient sureties for his appearance, whenever his attendance may be required by the court. The security-bonds shall correspond with the Form (B.) prescribed in the Appendix of this regulation.

Stamp-duties not required from paupers.

On what paper their proceedings are to be written.

And how process to be issued and served.

VII. *First.* The stamp-duty which has been substituted for the institution-fee of Regulation XIII. of 1816, shall not be required from persons who may be admitted to sue as paupers. The plaint, reply, or other pleadings on the part of the pauper, as well as applications on his part for receiving exhibits and summoning witnesses, may be written on unstamped paper. The notice to the defendant, the summons for witnesses, and other processes on the part of the pauper, shall be served through the peons on the establishment of the courts, without any expense to the pauper; and the copy of the decree, as well as copies of orders or proceedings which he may be required to take, shall be furnished to a pauper on unstamped paper.

Provision for defraying, at the public charge, the reasonable expenses of witnesses necessary to the suit but unable to pay their own charges.

Second. Whenever it shall appear to the court before whom a pauper suit is depending, that a witness, whose evidence may be considered to be material to the issue of such suit, is unable to defray the expenses necessary to his appearing before the court, they are empowered to direct the payment to such witness of such necessary and reasonable expenses as may be incurred in his attendance before the court, and to charge the same in their monthly abstract.

Costs, how to be charged in the decree.

Third. On the conclusion of the suit, the court shall calculate the whole of the costs which would have been incurred by the plaintiff on account of the several stamp-duties prescribed by Regulation XIII. of 1816, and other legal expenses, had he not been permitted to sue as a pauper, and shall charge the same in the decree to the party cast, or to the parties respectively, in such proportions as may be deemed equitable.

Litigious paupers

VIII. Whenever a court before whom a pauper shall have instituted a

suit shall by their decree declare the said suit to be vexatious or litigious, it shall be competent to that court to adjudge that the said pauper do pay a fine not exceeding 200 rupees, and be imprisoned until such fine shall be paid, provided the time of imprisonment do not exceed six months; at the end of which period, or of such shorter period as the said court may have fixed in commutation for the said fine, the pauper shall be released: provided always, that no sum shall be received in payment of the said fine until the whole of the fees and costs of suit which may have been decreed against the said pauper shall have been paid.

may be fined and imprisoned.

Proviso.

IX. *First.* The courts are empowered and directed to proceed for the recovery of any costs decreed against a pauper, by attachment and sale of any property which may, at any time after the passing of their decree, be discovered to belong to the said pauper.

Costs to be recovered from paupers if property is at any time discovered belonging to them.

Second. Courts are empowered to proceed for the recovery of any sums due by the securities of a pauper under the terms of the security-bonds, in the same mode as they are directed to proceed in executing decrees of court.

Forfeited security, how to be recovered.

See Reg. III., 1822.

X.* *First.* Whenever a pauper plaintiff, against whom a decree has been passed, may desire to appeal therefrom, he shall address himself to one of the vakeels of the court competent to admit the appeal; and the vakeel, if he be willing to undertake the conduct of the appeal, shall draw out a petition setting forth the specific grounds on which the appeal is preferred, and shall present the said petition within the period prescribed for the admission of regular appeals, together with a copy of the decree appealed from.

An appellant desirous to proceed as a pauper, how to proceed.

Second. If the court shall be of opinion that an appeal is necessary to correct any error or omission in the original decree, or is otherwise requisite for the ends of justice, they shall admit the appeal, on the appellant's producing good and sufficient security for his appearance as prescribed in Section VI., and shall proceed in the investigation under the general rules of appeal; but if the appeal shall not appear to be necessary for the ends of justice, the court shall reject the petition, and such order of rejection shall be final: provided, however, that such order of rejection shall not bar the said plaintiff's right to appeal on fulfilling the regular conditions of appeal under the regulations relative to payment of stamp-duties and fees.

Under what circumstances an appellant may be admitted as pauper.

See Sec. xi., Reg. XII., 1809, and Sec. xlv., Reg. XV., 1816.

XI. Inasmuch as a pauper plaintiff in whose favour a decree may have passed will be unable to obtain execution of the said decree pending an appeal, the court to whom an appeal may be preferred by an original defendant will admit the original plaintiff to defend the appeal as a pauper without further investigation.

A pauper plaintiff in an original suit not required to prove poverty if admitted to appeal.

XII. Courts are hereby empowered to assign one of their constituted vakeels to act on behalf of any person to present his original application or his petition of appeal, or to prosecute any original suit, or to conduct the prosecution or defence of any appeal under the provisions of this regulation.

Courts may assign vakeels to paupers.

* Regulation III., 1822, admits either of the parties to appeal as paupers.

To what cases the provisions of this regulation are applicable.

XIII. It is hereby declared, that the rules contained in this regulation are intended to apply to regular suits and appeals only, and not to summary suits or summary appeals of any description. Neither are they intended to apply to pauper suits which may have been instituted either originally or in appeal previously to the promulgation of this regulation: such pauper suits and appeals are to be tried and determined in conformity with the rules heretofore in force.

Extended to special appeals by Sec. iii., Reg. III., 1822. But see Act III., 1843.

APPENDIX.

(A.)

"I solemnly *swear*, that the several allegations contained in the foregoing declaration are true, in substance and matter of fact, and that the schedule annexed contains an account of the whole of my real and personal property, and that I have not transferred, by sale, mortgage, or otherwise, any property before possessed by me, for the purpose of being admitted to sue as a pauper.

See Act V., 1840.

"So help me God."

(B.)

"Whereas a suit has been instituted in the Court of by , pauper plaintiff, against , defendant, and whereas I , inhabitant of , have voluntarily become security for the appearance of the said plaintiff, whenever his attendance may be required, until the final decree on the suit shall have been carried into execution; I do therefore hereby engage and bind myself, my heirs and successors, that the said plaintiff shall appear in person, or by an accredited agent, whenever his attendance may be required at any time while the above suit is depending before the said court, or before the final decree which may be passed thereupon shall be fully and completely executed; in default whereof, and in the event of my not producing the said plaintiff when called upon, I will be answerable for such sum as may be adjudged against him, and for the performance of whatever order or decree may be passed against him on the suit above mentioned."

A.D. 1818. REGULATION VIII.

[Framed upon Regulation XVI., 1797, of the Bengal Code.]

A Regulation *prescribing the Rules under which Appeals may be preferred to the King's Most Excellent Majesty in his Privy Council, from the Decisions of the Court of Sudder Adawlut at Fort St. George:* Passed *by the Governor in Council of Fort St. George, on the 3rd November,* 1818, *corresponding with the 20th Arpesi of the year Bahudhanya,* 1740*th year of Saliwahana, and with the 3rd Muharram,* 1234 *Hijra.*

Preamble.

The Governor-General in Council having relinquished the authority hitherto exercised by him of receiving appeals from the decrees of the

Court of Sudder Adawlut of Fort St. George, it is necessary to repeal the provisions of the regulations which regard such appeals; and it is further necessary to declare the rules under which appeals to the King's Most Excellent Majesty in his Privy Council may be preferred from the decrees of the said Court of Sudder Adawlut; the Governor in Council has therefore enacted the following rules for that purpose, to be in force from the date of their promulgation.*

See Act XI., 1839.

Rescissions.

II. Sections XXXI., XXXII., XXXIII., XXXIV., XXXV., and XXXVI., Regulation V. of 1802; such part of Clause First, Section XXII., Regulation XIII. of 1816, as relates to the value of the stamped paper on which copies of proceedings in appeal to the Governor-General in Council shall be prepared, and generally all rules providing for, or directly relating to, appeals from the decisions of the Sudder Adawlut at Fort St. George to the Governor-General in Council, are hereby rescinded.

Petitions of appeal to the King in Council shall be presented to the Sudder Adawlut within six months.

III. All persons desirous of appealing from a judgment of the Court of Sudder Adawlut to the King in Council are required to present their petition of appeal to the said Court of Sudder Adawlut, either in person, or through one of the pleaders of that court, within six calendar months from the date on which the judgment appealed against may have been passed.

The court may either order their judgment to be carried into execution, taking security from the party in whose favour the decree may have been passed to abide the event of the appeal, or suspend the execution, taking the like security from the party left in possession.

Appellants in all cases to give security for payment of costs and for the performance of the final order or judgment on the appeal.

Appeals to be declared admitted on receiving such security, and notice to be given to the parties to prosecute and defend the same according to the established mode of proceeding.

IV. The Court of Sudder Adawlut may either order the judgment passed by them to be carried into execution, taking sufficient security from the party in whose favour the same may be passed, for the due performance of such order or decree, as His Majesty, his heirs or successors, shall think fit to make on the appeal; or suspend the execution of their judgment during the appeal, taking the like security in the latter case from the party left in possession of the property adjudged against him; but in all cases security is to be given by appellants, to the satisfaction of the Sudder Adawlut, for the payment of all such costs as the said court may think likely to be incurred by the appeal, as well as for the performance of such order or judgment as His Majesty, his heirs or successors, may think fit to give thereupon; and after receiving such security, the Court of Sudder Adawlut are to declare the appeal admitted, and to give notice thereof to the appellant and respondent respectively, that they may take measures, the one to prosecute, the other to defend, the cause in appeal before His Majesty in his Privy Council, according to the established mode of proceeding in similar cases.

See Act II., 1844.

In all cases of appeal, two copies of all proceedings to be prepared in English and transmitted, under the official seal and signature of the register, to the Governor in Council, to be forwarded to His Majesty in Council.

V. In all cases wherein the Sudder Adawlut may admit an appeal to the King in Council, they are to cause two exact copies to be made of all the proceedings held and judgments or orders given in the case appealed, including the whole of the evidence and documents (translated into English, if the original documents be in any of the country languages), and are to transmit the same as soon as prepared, under their official seal and the signature of their register, to the Governor in Council, for the

* See the rules for appeals promulgated by the order of Her Majesty in Council on 10th April, 1838—Appendix.

The parties also to be furnished with copies of the proceedings, on application, provided they agree to pay the expense of preparing the same.

purpose of being forwarded by the first secure and separate conveyances to His Majesty in Council. The register to the Sudder Adawlut shall also, on the application of the appellant or respondent, furnish him or them with one or more copies of the proceedings held, and judgments or orders passed on the case appealed; provided, however, that the parties on whose application the copies hereinbefore mentioned shall be made, whether for transmission to His Majesty in Council, or for delivery to the parties themselves, shall respectively agree to defray such expense as may be incurred thereby, but not otherwise. And the register is not to transmit the copies, when prepared, to the Governor in Council for the purpose above stated, nor to deliver to parties copies prepared for their use respectively, without the previous payment of the expense incurred thereby; the amount of which is to be carried to the credit of Government, by whom the necessary expenditure on this account will be made in the first instance.

Copies of any local regulation under which the judgment may have been passed, and which may have been referred to, to accompany the proceedings.

VI. In case the judgment appealed from shall have been passed in pursuance of any local regulation or regulations enacted by the Governor in Council, or in case any such regulation shall have been referred to in the judgments passed by any of the courts wherein the cause appealed from may have been tried and decided, a copy of such regulation or regulations, or an extract therefrom, containing all that has reference to the matter at issue, shall be annexed to the several copies of the proceedings prepared in conformity to the preceding section, whether for delivery to the parties, or for transmission to His Majesty in Council.

A.D. 1818. REGULATION IX.

A Regulation *for rescinding such Part of Section XLI., Regulation XI. of* 1816, *as may be construed to restrict the Authority of Assistant Magistrates to the Towns in which they may be deputed to reside:* Passed *by the Governor in Council of Fort St. George, on the* 11*th December*, 1818, *corresponding with the* 28*th Kartikei of the year Bahudhanya,* 1740*th year of Saliwahana, and with the* 11*th Safar*, 1234 *Hijra.*

Preamble.

Whereas inconvenience has arisen from the restriction which, by Section XLI., Regulation XI., 1816, is imposed on the discretion to be exercised by magistrates in delegating authority to their assistants, such authority being expressly limited to the jurisdiction of the town in which the said assistants may be deputed to reside; and whereas it has been judged expedient to remove this restriction, and to authorize magistrates to make over the whole or any part of their duty as magistrates to their assistants, and to depute them to hold their offices in any part of their zillahs which may be deemed proper, the following rules have been enacted.

II. Such part of Section XLI., Regulation XI., 1816, as may be construed to restrict the authority of assistant magistrates to the towns in which they may be respectively deputed to reside, is hereby rescinded, and zillah magistrates are hereby declared to be authorized to delegate to their assistants the whole or any part of their duty as magistrates, and to depute them to hold their offices in any of the districts within their several jurisdictions which may be deemed proper.

Part of Section XLI., Regulation XI. of 1816, rescinded, and magistrates authorized to delegate to their assistants the whole or any part of their duty.

A.D. 1819. REGULATION I.

A REGULATION *for rescinding Section IX., Regulation XXVI.*, 1802, *and vesting in the Board of Revenue a discretionary Power to fix in perpetuity the Amount of the public Assessment upon Subdivisions of Estates, liable to a Proportion of the permanent Land-tax, less than the Sum of Five Hundred Star Pagodas per Annum; for rendering the permanent Alienation, Transfer, or Sale of Subdivisions thus assessed valid in the Courts of Adawlut; and for preventing Fraud, Corruption, or Error in the Distribution of the public Assessment upon landed Property in General:* PASSED *by the Governor in Council of Fort St. George, on the* 19*th of January*, 1819, *corresponding with the* 8*th Tai of the year Bahudhanya*, 1740*th year of Saliwahana, and with the* 21*st Rabi-ul-awal*, 1234 *Hijra.*

Preamble.

WHEREAS Section IX., Regulation XXVI., 1802, directs that "no portion of a divided estate shall bear a less proportion of the permanent land-tax than the sum of five hundred pagodas," and that "where estates may be divided into portions, charged with a sum less than five hundred pagodas per annum, such separation of lands shall not be valid in the Adawlut," but "the proprietor of the estate before such division shall continue to be liable for the entire amount of the permanent land-tax, in the same manner as if the separation had not been made;" and whereas these provisions are considered impolitic and inexpedient, as impeding the free subdivision of zemindary property and checking improvement, by rendering the tenure by which such portions of land can be held dependent on the punctual discharge of the public jumma on the entire estate by the existing zemindar, and as thus opposing obstacles to the free transfer, subdivision, improvement, and security of such property; and whereas it is thought that these enactments, intended originally to facilitate the realization of the land revenue, may be modified in such a manner as to be productive of material benefit, without seriously impeding or obstructing the collection of the public revenue; and whereas it has been deemed expedient to guard the public against the loss to which it is exposed from fraud, corruption, or error, in the distribution of the public assessment upon landed property in general—wherefore the Governor in Council has been pleased to enact this regulation, to take effect from and after the date of its promulgation.

Section IX., Regulation XXVI., 1802, rescinded. Zemindaries may be subdivided into portions not less than one village or dependent hamlet, provided the public revenue be duly assessed thereon.

II. Section IX., Regulation XXVI., 1802, is hereby rescinded; and a zemindary or landed estate may be divided into portions of not less than one entire village, or dependent hamlet, with defined boundaries, charged with a proportion of the permanent land-tax less than five hundred pagodas per annum; but such separation of lands shall not be valid in the Courts of Adawlut, unless the amount of the permanent land-tax assessed thereon shall have been fixed by the collector, according to the other rules contained in the regulation above mentioned, and confirmed by the authority of the Board of Revenue, signified in writing.

The confirmation of such subdivisions discretionary with the Board of Revenue, and without it they cannot take place.

III. The Board of Revenue shall be at liberty to grant or withhold their confirmation in respect to any subdivision, the assessment on which may be less than five hundred pagodas per annum; when the Board of Revenue may confirm assessments referred to in the preceding section, the zemindar shall be at full liberty, by sale, gift, and otherwise, to alienate or transfer, in perpetuity, all his rights in such subdivisions; but if the Board of Revenue shall withhold or refuse their confirmation to the proposed subdivisions, the separation of the lands shall not take place.

On proof, within ten years, of any fraud or error in apportioning the public revenue on subdivisions of a zemindary, Government may direct a re-allotment thereof.

IV. Should it be proved to the satisfaction of the Governor in Council, that any fraud or material error has been committed in apportioning the permanent assessment on lands divided into two or more distinct estates, under the provisions of Regulation XXVI., 1802, or under the provisions contained in this regulation, it shall be competent to the Governor in Council, from and after the promulgation of this regulation, within the term of ten years subsequent to the period at which such division or allotment may have been made, to order the land-tax to be apportioned anew on the principles laid down in the existing regulations.

The period from which the ten years are to be calculated.

V. The period of years mentioned in the preceding section shall be calculated from the date on which the partition of the lands and allotment of the land-tax may have received the written confirmation of the Board of Revenue.

A.D. 1819. REGULATION II.

[Framed upon Regulation III., 1818, of the Bengal Code.]

A Regulation *for the Confinement of State Prisoners:* Passed *by the Governor in Council of Fort St. George, on the 4th March,* 1819, *corresponding with the 23rd Masi of the year Bahudhanya,* 1740*th year of Saliwahana, and with the 7th Jamadi-ul-awal,* 1234 *Hijra.*

Preamble.

Whereas reasons of state policy occasionally render it necessary to place under personal restraint individuals against whom there may not be sufficient ground to institute any judicial proceeding, or when such proceeding may not be adapted to the nature of the case, or may for other reasons be unadvisable or improper; and whereas it is fit that, in every

case of the nature herein referred to, the determination to be taken should proceed immediately from the authority of the Governor in Council; and whereas the ends of justice require that, when it may be determined that any person shall be placed under personal restraint otherwise than in pursuance of some judicial proceeding, the grounds of such determination should from time to time come under revision, and the person affected thereby should at all times be allowed freely to bring to the notice of the Governor in Council all circumstances relating either to the supposed grounds of such determination, or to the manner in which it may be executed; and whereas the ends of justice also require, that due attention be paid to the health of every state prisoner confined under this regulation, and that suitable provision be made for his support, according to his rank in life, and to his own wants and those of his family. And whereas the reasons above declared sometimes render it necessary that the estates and lands of zemindars, talookdars, and others, situated within the territories dependent on the Presidency of Fort St. George, should be attached and placed under the temporary management of the revenue authorities, without having recourse to any judicial proceeding; and whereas it is desirable to make such legal provisions as may secure from injury the just rights and interests of individuals whose estates may be so attached under the direct authority of Government—the Governor in Council has enacted the following rules, which are to take effect throughout the provinces immediately subject to the Presidency of Fort St. George, from the date on which they may be promulgated.

Mode of proceeding for placing individuals under restraint as state prisoners.

II. *First.* When the reason stated in the preamble of this regulation may seem to the Governor in Council to require that an individual should be placed under personal restraint, without any immediate view to ulterior proceedings of a judicial nature, a warrant of commitment under the authority of the Governor in Council, and under the hand of the Chief Secretary, or of one of the secretaries to Government, shall be issued to the officer in whose custody such person is to be placed.

Form of warrant to be issued.

Second. The warrant of commitment shall be according to the form prescribed in the Appendix to this regulation.

Such warrant to be sufficient authority for the detention of any state prisoner

Third. The warrant of commitment shall be sufficient authority for the detention of any state prisoner in any fortress, gaol, or other place within the territories subject to the Presidency of Fort St. George.

Officers in whose custody state prisoners may be placed to submit to Government periodical reports.

III. Every officer in whose custody any state prisoner may be placed, shall, on the 1st of January and 1st of July of each year, submit a report to the Governor in Council, through the Chief Secretary to Government, on the conduct, the health, and the comfort of such state prisoner, in order that the Governor in Council may determine whether the orders for his detention shall continue in force, or shall be modified.

See Act II., 1834

State prisoners in the custody of the *zillah criminal judge* to be visited by the *judge of circuit at the sessions.*

IV. *First.* When any state prisoner is in the custody of a *zillah criminal judge*, the *judges of circuit* are to visit such state prisoner on the occasion of the *periodical sessions*, and they are to issue any orders concerning the treatment of the state prisoner which may appear to them advisable, provided they be not inconsistent with the orders of the Governor in Council issued on that head.

State prisoners in custody of a public officer not being a *zillah criminal judge*, to be visited by such person as may be nominated by Government for the duty.

Second. When any state prisoner is placed in the custody of any public officer, not being a *zillah criminal judge*, the Governor in Council will instruct either the *criminal judge*, or the *judge of circuit*, or any other public officer not being the person in whose custody the prisoner may be placed, to visit such prisoner at stated periods, and to submit a report to Government regarding the health and treatment of such prisoner.

Representations which may be made by state prisoners to be submitted to Government.

V. The officer in whose custody any state prisoner may be placed, is to forward, with such observations as may appear necessary, every representation which such state prisoner may from time to time be desirous of submitting to the Governor in Council.

Early report to be made to Government regarding the nature of the confinement, the health, and the allowances granted to state prisoners.

VI. Every officer in whose custody any state prisoner may be placed, shall, as soon after taking such prisoner into his custody as may be practicable, report to the Governor in Council whether the degree of confinement to which he may be subjected, appears liable to injure his health, and whether the allowance fixed for his support be adequate to the supply of his own wants and those of his family according to their rank in life.

The allowance fixed for the support of a state prisoner to be duly appropriated to that object.

VII. Every officer in whose custody any state prisoner may be placed, shall take care that the allowance fixed for the support of such state prisoner is duly appropriated to that object.

The provisions contained in Sections III. to VII. of the present regulation applicable to all persons who are now confined as state prisoners.

VIII. The provisions contained in Sections III., IV., V., VI., and VII. of this regulation, are hereby declared to be applicable to all persons who are now confined as state prisoners under the authority of Government within the territories subject to the Presidency of Fort St. George.

Rules for the attachment of estates or lands by the orders of Government without a previous decision of a court of justice.

IX. Whenever the Governor in Council, for the reasons declared in the preamble to this regulation, shall judge it necessary to attach the estates or lands of any zemindar, jagheerdar, talookdar, or other person, without any previous decision of a Court of Justice or other judicial proceeding, the grounds on which the resolution of Government may have been adopted, and such other information connected with the case as may appear essential, shall be communicated, under the hand of one of the secretaries to Government, to the judge of the district in which the lands or estates may be situated, to the *Provincial Court of Appeal and Circuit*, and to the Sudder and Foujdarry Adawlut.

Lands or estates so attached to be placed under the management of the officers of Government in the revenue department.

And not liable to be sold on account of decrees of the civil courts or otherwise while under attachment.

The Government will make such arrangement as may be proper for the satisfaction of the decrees of the civil courts in such instances.

Rules to be observed

X. *First.* The lands or estates which may be so temporarily attached, shall be held under the management of the officers of Government in the revenue department, and the collections shall be made and adjusted on the same principles as those of other estates held under khas management.

Second. Such lands or estates shall not be liable to be sold in execution of decrees of the Civil Courts, or for the realization of fines or otherwise, during the period in which they may be so held under attachment.

Third. In the cases mentioned in the preceding clause, the Government will make such arrangement as may be fair and equitable for the satisfaction of the decrees of the Civil Courts.

XI. Whenever the Governor in Council shall be of opinion that the

circumstances which rendered the attachment of such estate necessary have ceased to operate, and that the management of the estate can be committed to the hands of the proprietor without public hazard or inconvenience, the revenue authorities will be directed to release the estate from attachment, to adjust the accounts of the collections during the period in which they may have been superintended by the officers of Government, and to pay over to the proprietor the profits from the estate which may have accumulated during the attachment.

In cases where Government may order the release of an estate from attachment.

APPENDIX.

Form of Warrant of Commitment.

To the (here insert the officer's designation).

Whereas the Governor in Council, for good and sufficient reasons, has seen fit to determine that (here insert the state prisoner's name) shall be placed under personal restraint at (here insert the name of the place), you are hereby required and commanded, in pursuance of that determination, to receive the person above named into your custody, and to deal with him in conformity to the orders of the Governor in Council and the provisions of Regulation II. of 1819.

Fort St. George, the

By order of the Governor in Council,
A. B.
Chief Sec. to Govt.

A.D. 1819. REGULATION III.

A REGULATION *to provide more effectually for the Punishment of Extortion, Oppression, or other Abuse of Authority on the part of Native Officers of Police:* PASSED *by the Governor in Council of Fort St. George, on the 9th March,* 1819, *corresponding with the* 28*th Masi of the year Bahudhanyah,* 1740*th year of Salivahana, and with the* 12*th Jamadi-ul-aval,* 1234 *Hijra.*

WHEREAS instances have occurred of abuse of authority on the part of the native officers of police in which the penalties prescribed in Section XLIV., Regulation XI. of 1816, have been found to be inadequate to the aggravated nature of the offence, and whereas it has been deemed expedient to provide more effectually for the punishment of such acts, the following rules have been enacted.

Preamble.

II. Sections XLIV. and XLV., Regulation XI., 1816, are hereby rescinded.

Certain sections of Regulation XI., 1816, rescinded.

Police officers liable to a civil action or criminal prosecution for abuse of authority.

Extent to which police officers may be punished by a magistrate for abuse of authority.

Cases in which they are to be forwarded to the *criminal judge*.

III. *First.* For extortion, oppression, or other abuse of authority, all native officers of police shall be liable to be sued in a *Zillah* Court, or to be prosecuted in a Court of Criminal Judicature.

Second. Whenever a charge of this nature may be preferred before a magistrate, and be proved by sufficient evidence to his satisfaction, he is hereby empowered to punish the offender by a fine not exceeding fifty *Arcot* rupees, or by imprisonment for a term not exceeding one month.

Third. In all cases wherein the measure of punishment specified in the preceding clause shall appear to be insufficient, the party accused shall be forwarded to the *criminal judge*, to be by him dealt with according to the provisions of the general regulations.

A.D. 1819. REGULATION IV.

A REGULATION *for determining the Rate of Duty on Goods exported or imported by Sea, to or from any of the Foreign European Settlements adjoining the Territories subject to the Presidency of Fort St. George:* PASSED *by the Governor in Council, on the* 10*th April,* 1819.

[Rescinded by Section II., Act VI., 1844.]

A.D. 1819. REGULATION V.

A REGULATION *for rescinding such Parts of Regulations IX., X., XI., of* 1816, *as disqualify Servants of the Government from attesting Confessions:* PASSED *by the Governor in Council of Fort St. George, on the* 23*rd April,* 1819, *corresponding with the* 12*th Chitteri of the year Pramadi,* 1741*st year of Saliwahana, and with the* 27*th Jamadi-us-sany,* 1234 *Hijra.*

Preamble.

WHEREAS serious inconvenience has been found to arise under the operation of the rule which disqualifies servants of the Government from attesting confessions, or confirmations of former confessions, made before the officers of justice by persons charged with the commission of criminal acts; and whereas it has been deemed expedient, in order to facilitate the administration of public justice, that such disqualification should be removed, the Right Honourable the Governor in Council has been pleased to enact as follows:—

Certain provisions of Regulations IX., X., XI. of 1816, re-

II. Such parts of Section XXVI., Regulation IX., 1816, and Section XXVII., Regulation XI., 1816, as prohibit persons, being servants of

the Government, from attesting confessions made by prisoners before magistrates of the zillahs or district police officers, and such part of Section X., Regulation X., 1816, as prohibits persons, being servants of Government, from attesting confessions, or confirmations of former confessions, made by prisoners before the *criminal judges* of the zillahs, are hereby rescinded.

A.D. 1819. REGULATION VI.

A REGULATION *for rescinding Sections II. and III. of Regulation IV. of* 1812, *and Regulation I. of* 1817, *and for giving due Publicity to a certain Regulation enacted by the Honourable the Court of Directors of the United Company of Merchants of England trading to the East Indies, relative to the Trade of Foreign Nations with the British Possessions in India:* PASSED *by the Governor in Council of Fort St. George, on the* 15*th May*, 1819.

WHEREAS the Honourable the Court of Directors of the United Company of Merchants of England trading to the East Indies have, in virtue of the powers granted to them by an Act passed in the 37th year of the reign of his present Majesty, framed a regulation for carrying on the trade to and from the British possessions in India and the countries and states in amity with his Majesty, it is necessary that all previous enactments of the Government of Fort St. George which may be inconsistent with the said regulation should be rescinded; and with the view that the provisions of the said regulation may be duly observed by the courts of justice and public officers of Government, and may be generally known and understood, it is expedient that the same should be printed and bound up with the code of regulations enacted by the Governor in Council of Fort St. George, and be likewise translated into the languages of the country,—the Right Honourable the Governor in Council has, therefore, passed the following rules, to be in force from the date of their promulgation. Preamble.

II. Sections II. and III., Regulation IV. of 1812, and Regulation I. of 1817, are hereby rescinded. Rescissions.

[*The rest of this enactment rescinded by a regulation of the Court of Directors, printed as Regulation VII.*, 1831. *The extract of the Convention of Commerce between Great Britain and the United States of America, of 3rd July*, 1815, *which was annexed as an Appendix to this regulation, will be found at the end of Regulation VII.*, 1831.]

A.D. 1819. REGULATION VII.

A REGULATION *for modifying and explaining certain Parts of Regulation II.*, 1816, *and of other Regulations now in force for the Collection of Customs :* PASSED *by the Governor in Council of Fort St. George, on the* 10*th July*, 1819.

[Rescinded by Section II., Act VI., 1844.]

A.D. 1819. REGULATION VIII.

A REGULATION *for rescinding Regulation IX. of* 1802: PASSED *by the Governor in Council of Fort St. George, on the* 29*th November*, 1819.

Preamble.

THE system prescribed by Regulation IX. of 1802, for the preparation of regulations by the several authorities therein specified, regarding matters within their cognizance respectively, has not been found productive of the desired effect. The time and attention of the judges of the Sudder and Foujdarry Adawlut have been much occupied, and their other important duties frequently impeded, by the revision of regulations which, being drafted by officers of various departments not experienced in that duty, were often found defective in point of form, and otherwise unfit for adoption without considerable alterations. Moreover, the judges of the Court of Sudder and Foujdarry Adawlut, in performing the duty with which they are charged, of revising regulations prepared in other departments, stood often in need of information to which they could not have access except by a circuitous reference. It appears, further, to be inconsistent with general and acknowledged principles of good government, which require the separation of the legislative and judicial functions, that laws which are to regulate the decisions of the courts of justice should be finally prepared for promulgation by the court exercising the highest civil and criminal jurisdiction, whose duty it is to expound and interpret those laws in the last resort. The Right Honourable the Governor in Council has, therefore, resolved to rescind Regulation IX. of 1802, and to make such special provision as may appear from time to time expedient for bringing under the notice and consideration of Government, with the opinion of the highest authorities in each department, the legislative rules which the judicial, revenue, and commercial authorities may deem it advisable to propose respecting matters coming within their cognizance, and for reducing into the form of regulations, as prescribed in Regulation I. of 1802, such of the proposed rules as may finally be adopted by the Government. The Right Honourable the Governor in Council has accordingly enacted as follows.

Rescission of Regulation IX. of 1802

II. Regulation IX. of 1802 is hereby rescinded.

A.D. 1820. REGULATION I.

A REGULATION *for rescinding Regulation I. of* 1808, *and for prescribing the Rules under which Arrack, Toddy, and other spirituous and fermented Liquors shall be manufactured and sold within the Territories subject to the Presidency of Fort St. George, without the limits of the Jurisdiction of the Supreme Court of Madras:* PASSED *by the Governor in Council of Fort St. George, on the 2nd June,* 1820, *corresponding with the 22nd Vyasi of the year Vikrama,* 1742*nd year of Saliwahana, and with the 20th Shaban,* 1235 *Hijra.*

Preamble.

WHEREAS the provisions of Regulation I. of 1808 have been found inefficient to restrain the immoderate use of intoxicating liquors, and are otherwise defective; and it is expedient that the same be revised and amended, and that restrictions be imposed on the sale of toddy, and on the transit and custody of foreign or country spirits; and whereas it is necessary for the due security of the revenue derived from these sources, that discretionary authority be vested in collectors, either to retain the sale of spirituous liquors under their own management, on account of the Government, or to rent the same to farmers; and likewise to authorize renters to subrent their farms, and to enable them to recover, by summary process, any arrears that may be due to them by their under-renters: the Right Honourable the Governor in Council has resolved to rescind Regulation I. of 1808, and to enact the following rules, to be in force from the date of their promulgation in the territories subject to the Presidency of Fort St. George, excepting the town of Madras, and the limits of His Majesty's Supreme Court of Judicature.

Rescissions.

II. Regulation I. of 1808, and such parts of Sections XLIV. and XLV., Regulation IX. of 1816, and of Section XXXVIII., Regulation X. of 1816, as relate to certain clauses of Regulation I. of 1808, are hereby rescinded.

Spirituous liquors may be manufactured and sold only in conformity with this regulation.

III. All persons are forbidden to manufacture or sell rum, arrack, or other spirits, or toddy or other fermented liquors, except in conformity with the provisions of this regulation.

Licenses to Europeans for the establishment of distilleries will be granted by the collectors under the orders of the Board of Revenue.

See Secs. ii. and iii, Act XXXII, 1845.

IV. *First.* The Board of Revenue are hereby authorized to empower collectors to grant to Europeans, descendants of Europeans, Armenians, or other persons whom such collectors may approve, licenses to establish, in such places as may appear to the Board to be proper, distilleries for manufacturing rum, arrack, or other spirits, by process of distillation similar to the European system; and such licenses shall accordingly be issued by the collectors under their official signature, on the parties to whom they may be granted executing counterparts of such licenses, to be lodged with the said collectors respectively.

Second and *Third.* [All spirituous liquor manufactured at such distilleries to be exported by sea; penalties for breach of that rule.]—*Repealed*

by Section I., Act XXXII., 1845, and see Sections II. and III. of that Act.

No European British subject to be allowed to establish a distillery until he has produced his license to reside.

Fourth. It is hereby declared, that no license for the establishment of a distillery shall be granted to any British subject until he shall have complied with the provisions of the Act of the 53rd Geo. III., c. 155, Clause 108; and shall produce to the collector the copy, duly attested by the civil judge of the zillah, of the license granted to him by the Government permitting him to reside at the place in which such distillery is intended to be established.

See Reg. II 1820, and Act XXXII, 1845.

Penalty for working distillery without license.

Fifth. Any person who shall be found working a distillery of the kind above specified without obtaining a license, or after the period for which his license was granted, and before obtaining a renewal thereof, or after the forfeiture of his license under the provision of Clause Fourth of this section, shall, on proof of the fact before the *criminal judge* of the zillah, forfeit all the spirits manufactured at such distillery, together with all the stills, vessels, and other moveables appertaining thereto; and also the sum of two rupees for every gallon which each still in such distillery is calculated to contain, for each day in which he shall appear to have worked such still in the said distillery without a license.

See Sec IV, Act XXXII, 1845

The exclusive manufacture and sale of spirituous liquors may be farmed out or retained under the orders of the Board of Revenue.

V. *First.* The Board of Revenue are hereby authorized to empower collectors, either to retain the exclusive privilege of manufacturing country arrack, toddy, and other fermented liquors, as well as the retail sale of foreign or country-manufactured spirits, toddy, and other fermented liquors, in their respective districts, under their own immediate management, on account of Government; or to rent out those privileges, jointly or separately, for such periods as may be deemed eligible.

Board of Revenue to frame general rules.

Second. The Board of Revenue are also authorized and directed to frame rules, and from time to time, as occasion may require, to alter, amend, and enlarge such rules, for regulating the exclusive manufacture and sale of country arrack, toddy, and other fermented liquors, and the exclusive sale of foreign spirits; and for determining the places at which stills and shops shall be erected, and the number of such in each zemindary or other division of territory, the rates to be established, and measures to be used in the sale of such spirits and liquors, the due publication of such rates and measures, and generally all matters relating to the detailed management and control of such distilleries and shops.

No stills or shops to be established but under a license, according to a form to be prepared by the Board of Revenue.

VI. *First.* Forms of licenses for renting out the exclusive privilege of manufacturing country arrack, toddy, or other fermented liquors, and of retailing spirituous liquors, shall be prepared by the Board of Revenue; and no renter shall be allowed to establish a still or shop, until he shall have obtained such license from the collector of the district, and executed a counterpart thereof to be lodged with the said collector.

Specifications of the license.

Second. The license shall specify the amount of rent by the year to be paid during the period for which the rent is farmed, the amount of the kista, and the times when they are to be discharged, the minimum price at which the liquor is to be sold, the number of stills and shops to be established, and the places at which they are to be fixed. The license shall likewise contain stipulations that the renter shall not allow any noxious ingredients to be used in the preparation and manufacture of liquor; and

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that he shall use his best endeavours to prevent all forbidden and improper practices at the shops to be opened under his license.

Third. Mochulkas or engagements shall be prepared by the Board of Revenue, to be translated into the country languages, particularizing the rules to be observed by persons employed by the renters to superintend distilleries or shops for the manufacture or vend of spirituous liquors.

Mochulkas of distillers and venders under the renter.

Fourth. The mochulkas of persons intrusted with the superintendence or management of distilleries shall specify, that they will not mix, or knowingly permit to be mixed, in the liquors distilled at the stills under their charge respectively, any ingredient pernicious to health, such as chunam, oomittakáy, or other material intended to increase the power of the spirit, or to add to its intoxicating quality.

Mochulkas of distillers, what to specify

Fifth. The mochulkas of persons in charge of shops for the retail sale of spirits shall contain stipulations necessary to prevent such shops from becoming places of drunkenness, or the haunts of thieves or persons of notoriously bad character, and shall forbid the receiving of grain, goods, wearing apparel, or other effects, in barter or pawn for liquor, and likewise the selling of liquor to European soldiers and sailors.

Mochulkas of venders, what to specify

Sixth. Every person placed by the renter, or by the collector when the abkary is retained in his management, in charge of a still or shop, shall sign in duplicate the mochulka mentioned in the foregoing clauses, after the same shall have been read over by him, or read and explained to him if he is unable to read it himself. Two creditable persons shall be present when the mochulka is acknowledged and executed by him, and shall sign their names in testimony of such acknowledgment; one copy of the said mochulka shall be deposited with the collector, and the other shall be fixed up in some conspicuous place of the shop or distillery.

Mochulkas, how to be executed

Seventh. Persons charged with having mixed, or permitted to be mixed, noxious ingredients with the liquors prepared or distilled by them, or under their directions, shall be committed for trial before the *Court of Circuit*, and on conviction of such offence, shall be subject to imprisonment and hard labour on the public roads for a period not exceeding three years.

Penalty for mixing noxious ingredients in the distillation of arrack

Imprisonment and hard labour not exceeding three years

Eighth. Persons convicted before the magistrate of permitting drunkenness and riot in their shops, or of harbouring thieves or persons of notoriously bad character, or of bartering or pawning liquor for grain, wearing apparel, or other effects, shall be sentenced to pay such fine, not exceeding two hundred rupees, as may appear to the magistrate an adequate punishment for their offence; the amount of such fine to be levied by distress and sale of the property of the offender; or, if no property of such offender be found, or not sufficient to pay the amount of such fine, or otherwise in default of the payment of such fine, such offender shall be sentenced to imprisonment for such time as may appear to be a fair commutation for such fine or portion of the fine as may be due; provided that such imprisonment shall in no case exceed six months.

Penalty for harbouring thieves, &c.

Fine not exceeding 200 rupees,

Or imprisonment not exceeding six months

Ninth. Any person who shall erect a still, or establish a shop, or sell liquor without a license, or at any other place or places than the place or places mentioned in his license and kabooleat, or after the expiration of his license and before having obtained a renewed license, shall, on conviction before the *criminal judge* be sentenced to pay such fine, not exceeding four hundred rupees, as may appear adequate to his offence; the amount of such fine to be levied by distress and sale of the property

Penalty for distilling or selling without a license.

Fine not exceeding 400 rupees,

of the offender; or if no property of such offender be found, or not sufficient to pay the amount of such fine, or otherwise in default of the payment of such fine, the offender shall be sentenced to imprisonment and hard labour for such time as may appear to be a fair commutation for such fine, or portion of the fine, as may be due; provided that for such fine the imprisonment shall in no case exceed twelve months.

Or imprisonment not exceeding twelve months.

Collectors to furnish *criminal judges* with lists of licensed persons when required.

VII. Collectors shall, on requisition made to them to that effect, furnish *criminal judges* of their respective zillahs with lists of the names and residence of all persons authorized to work stills or superintend shops under any of the provisions of this regulation, specifying the places at which such persons are permitted to establish stills or shops.

Collectors empowered to recover arrears by summary process.

VIII. Collectors are empowered to proceed against renters under this regulation for the recovery of arrears due by them, in like manner as for the recovery of arrears from defaulters in the land revenue.

Renters of abkary may subrent.

IX. *First.* Persons who shall have rented the exclusive manufacture or sale of spirituous liquors are hereby declared to be authorized to subrent their farms on such pecuniary terms as they may respectively agree upon.

Agreements to subrent not to be executed on stamped paper.

Second. It is hereby declared, that the engagements to subrent abkary privileges and farms, as well as receipts and acknowledgments between renters and subrenters, are not required to be written on stamped paper, but shall be exempt from stamp-duty, in the same manner as instruments of correspondent descriptions which have relation to lands subject to the payment of revenue to Government are exempt therefrom under Clause First, Section XII., Regulation XIII. of 1816.

Subrenters to execute the mochulka prescribed in Section VI.

Third. Subrenters of the privilege of distilling or selling spirituous liquors shall respectively execute, in the mode prescribed in Clause Sixth, Section VI. of this regulation, the mochulka enjoined to be entered into by persons engaged in distilling or selling spirituous liquors.

Renters authorized to recover arrears from subrenters by summary process.

X. Renters under this regulation are authorized to proceed against subrenters for the recovery of arrears in the same manner as it is prescribed that recovery of arrears of the land revenue shall be recovered by landholders from their tenants.

No spirits to pass without a permit; and no one to have any spirits in custody without a permit.

XI. *First.* The transit of any quantity exceeding one seer of spirituous liquor without a permit, is hereby prohibited; and all persons not being renters or officers of Government authorized to dispose of spirituous liquors, are prohibited from having in their possession any quantity thereof exceeding one seer without a valid permit.

Permits, by whom to be issued and what to specify.

Second. Permits for the transit of spirituous liquors shall be issued only by the collectors or their assistants, or by abkary renters or their subrenters. Each permit so issued shall specify the quantity of liquor which it is intended to protect, the name of the person to whom, and the period for which it is granted, the place from which the liquor is to be removed, and the place to which it is to be carried.

Permits, how far valid.

Third. The permit of a collector or his assistant shall pass any quantity of spirituous liquor, and shall be held valid throughout the territories subject to the Government of Fort St. George; the permit of an abkary

renter, or of his subrenter, shall not pass more than 150 gallons of spirituous liquor, or one leaguer, and shall not be held valid beyond the boundaries of his own farm. To protect the transit of spirituous liquor exceeding 150 gallons, or one leaguer, not produced within the boundaries of his farm, a renter, like other individuals, must apply for a permit to the collector or his assistant.

Limitation as to the issue of permits.

XII. In order to confine the retail sale of spirituous liquors exclusively to the officers of Government, or to renters or subrenters authorized to sell the same, the collectors and their assistants are hereby prohibited from granting permits for any quantity of spirituous liquors less than two leaguers, except to abkary renters or subrenters, or to their own agents for the sale of liquor on account of Government, or to European gentlemen, on account of liquor for their private use; but collectors or their assistants may issue permits for the custody or transit of any quantity of liquor exceeding that above mentioned to wholesale dealers, or others possessed of, or desirous of purchasing the same.

Collectors may demand security from persons possessed of more than two leaguers of spirits.

XIII. *First.* Collectors shall be at liberty to demand from those who may have in custody more than two leaguers of spirituous liquor, full and ample security that the same shall not be disposed of in any quantity less than two leaguers, except to the renters, subrenters, or officers of Government.

And in default thereof may secure the liquor by seal and lock and key.

Second. In the event of the persons in whose custody such liquor may be placed not producing security which the collector may deem satisfactory, the collector shall be at liberty to place his seal upon the doors of the premises where the same may be deposited, and to secure them further by a lock and key. The owner, however, with the privity of the collector, shall continue to have access to his property at all reasonable times, it being understood that the charge and custody of the liquor shall remain with him, and that the seal and lock of the collector are merely intended to prevent the illicit removal or sale thereof.

Spirituous liquor on transit without a valid permit, or in the possession of any one unaccompanied by a permit, liable to confiscation.

XIV. All spirituous liquor passing through the territories under this Government, without the limits of the Supreme Court of Judicature at Madras, unaccompanied by a valid permit, or materially differing from the quantity specified in the permit, and all spirituous liquors found in the possession of wholesale dealers or others, not being renters or officers of Government authorized to dispose thereof, without the party possessing a valid permit, shall be liable to be confiscated by the collectors, subject to the orders of the Board of Revenue; one-third of the proceeds, when confiscated, shall be carried to the account of Government, and the remainder shall be divided between the informer and the person making the seizure, in such proportion as the collector, under the orders of the Board of Revenue, may deem just and proper.

And the parties liable to punishment.

XV. All persons passing spirituous liquor unaccompanied by a valid permit, or materially exceeding the quantity specified in the permit; all persons attempting the same; all persons having in their possession spirituous liquors exceeding one seer without a valid permit; and all persons who, without the privity of the collector, shall remove the seal or

lock which he is authorized by Section XIII. of this regulation to place on the doors of certain premises, shall, on proof thereof before the *criminal judge*, be liable to the payment of a fine, in no case exceeding five hundred rupees, and in default of payment, to imprisonment for a period not exceeding twelve months.

Fine not exceeding 500 rupees, Or imprisonment not exceeding twelve months.

Magistrates may issue search-warrants to discover illicit distillers, shops, &c.

XVI. *First.* Magistrates are hereby authorized to issue search-warrants for the discovery of unlicensed stills, or of spirituous liquors illicitly sold, manufactured, or deposited in any place, whenever information may be given to them on *oath*, or obtained by them from proceedings holden in any investigation before them, or from any credible source, that such illicit manufacture, sale, or transport has taken place.

Search-warrant, how to be executed in houses.

Second. Provided always, that no such search-warrant shall be executed but between sunrise and sunset; nor in the apartments of women of respectability and credit who do not ordinarily appear in public, except by women who shall be specially deputed by the magistrate to execute such warrant.

Occupiers of private gardens not compellable to draw toddy.

XVII. *First.* Nothing in this regulation shall be construed to authorize any public officer conducting the sale of spirituous and fermented liquors on account of the Government, or any renter, to compel or require the owner or occupier of any private garden or ground to draw toddy from cocoa, date, or other palm trees; nor shall any such officer or renter have any right of control or interference therewith, other than to prevent the sale by unlicensed persons of toddy drawn therefrom.

No abkary tax payable but to Government.

Second. No renter of the exclusive privilege of selling arrack or toddy shall be entitled to levy any personal tax, ground-rent, quit-rent, tope-rent, nor any tax payable by toddy-drawers unconnected with the exclusive privilege of vending toddy. All such lawful taxes shall be collected by the officers of Government, or by persons appointed by Government to collect them.

A.D. 1820. REGULATION II.

A Regulation *for giving greater Publicity to certain Clauses of the Act 53 Geo. III., c.* 155: Passed *by the Governor in Council of Fort St. George, on the* 18*th July*, 1820.

Preamble.

In order that the native inhabitants of the territories subordinate to the Presidency of Fort St. George may be made acquainted with the provisions which have been recently enacted by the British Legislature for protecting their persons and properties against European British subjects residing among them, it has been deemed expedient that such clauses of the Act 53rd Geo. III., c. 155, as render European British subjects amenable in certain cases to the local courts, and also such clauses of the said act as

relate in any way to the jurisdiction of the said courts, should be inserted in a regulation and printed, with translations in the country languages—the Governor in Council has, therefore, been pleased to enact as follows:—

Certain clauses of the Act 53 Geo. III., c. 155, to be translated into the country languages and promulgated.

II. The following clauses of the Act 53rd Geo. III., c. 155, shall be translated into the Persian, Teloogoo, and Tamul languages, and into such other of the native languages as the Governor in Council may hereafter be pleased to direct, and shall be published for the information of the native inhabitants of the territories subordinate to the Presidency of Fort St. George, viz.:

Justices of peace in the provinces shall have jurisdiction in case of assault and trespass committed by British subjects on the natives of India.

"CV. And whereas His Majesty's British subjects resident in the British territories in India, without the towns of Calcutta, Madras, and the town and island of Bombay, are now by law subject only to the jurisdiction of His Majesty's courts at Calcutta, Madras, and Bombay respectively, and are exempted from the jurisdiction of the courts established by the said United Company within the said territories, to which all other persons, whether natives or other inhabitants in the said territories without the limits of the towns aforesaid, are amenable: and whereas it is expedient to provide more effectual redress for the native inhabitants of the said territories, as well in the case of assault, forcible entry, or other injury accompanied with force, which may be committed by British subjects at a distance from the places where His Majesty's courts are established, as in case of civil controversies with such British subjects; be it therefore enacted, that it shall and may be lawful for any native of India, resident in the East Indies or parts aforesaid, and without the said towns, in case of any assault, forcible entry, or other injury accompanied with force, alleged to have been done against his person or property by a British subject, to complain of such assault, forcible entry, or other injury accompanied with force, not being felony, to the magistrate of the zillah or district where the alleged offender shall be resident, or in which such offence shall have been committed; and that such magistrate shall have power and authority, at the instance of the person so complaining, to take cognizance of such complaint, to hear parties, to examine witnesses, and, having taken in writing the substance of the complaint, defence, and evidence, to acquit or convict the person accused; and, in case of conviction, to inflict upon such person a suitable punishment, by fine, not exceeding five hundred rupees, to be levied, in case of non-payment, by warrant under the hand of the said magistrate, and upon any property of the party so convicted which may be found within the said district; and if no such property shall be found within the said district, then it shall be lawful for the said magistrate, by warrant also under his hand, to commit such offender to some place of confinement within the said zillah or district which, in the judgment of the said magistrate, shall be fit for receiving such offender; or, if there shall be no fit place of confinement, then to the gaol of the Presidency, to remain there for a period not exceeding two months, unless such fine shall be sooner paid; and it shall be lawful for the said magistrate to award the whole or any portion of such fine to the party aggrieved, by way of satisfaction for such injury: provided always, that in all cases of conviction of a British subject, under the provision hereinbefore contained, the magistrate before whom such convic-

Copy of conviction and proceedings to be sent to the Government.

tion shall take place shall forthwith transmit copies of such conviction, and of all depositions and other proceedings relative thereto, to the Government to which the place wherein the offence was committed is or shall be subordinate: provided also, that all such fines shall be paid in the first instance to the magistrate before whom the party offending shall be convicted, and the amount thereof, after making such satisfaction to the party aggrieved as aforesaid, if any, shall be transmitted by such magistrate to the Clerk of the Crown, or other officer to whom it belongs to receive fines in His Majesty's Court of Oyer and Terminer and Gaol Delivery for the province within which the offence shall have been committed; and such fines shall and may be disposed of in the same manner as other fines imposed by such Court of Oyer and Terminer and Gaol Delivery: provided also, that all such convictions shall and may be removable by writ of certiorari into the said Court of Oyer and Terminer and Gaol Delivery respectively, in the same manner and upon the same terms and conditions, and shall be proceeded upon in the same manner in every respect, as is directed in the said act of the thirty-third year of His Majesty's reign with regard to other convictions before justices of peace in the British settlements or territories in India: provided also, that nothing herein contained shall extend, or be construed to extend, to prevent such magistrate from committing or holding to bail any British subject, charged with any such offence before him, in the same manner as such British subject might have been committed or holden to bail if this Act had not been passed, where the offence charged shall appear to such magistrate to be of so aggravated a nature as to be a fit subject for prosecution in any of His Majesty's courts to which such British subject may be amenable."

Fines to be paid to the magistrate

Application thereof.

Convictions removable by certiorari, and subject to provisions of 33 Geo. III., c. 52.

Justices of the peace to have jurisdiction in cases of small debts due to natives from British subjects

"CVI.* And be it further enacted, that in all cases of debt not exceeding the sum of fifty rupees, alleged to be due from any British subject to any native of India, resident in the East Indies or parts aforesaid, and without the jurisdiction of the several Courts of Request established at Calcutta, Madras, and Bombay respectively, it shall and may be lawful for the magistrate of the zillah or district where such British subject shall be resident, or in which such debt shall have been contracted, to take cognizance of all such debts, and to examine witnesses upon oath, and in a summary way to decide between the parties, which decision shall be final and conclusive to all intents and purposes; and in all cases where any such debt shall be found to be due from any British subject to any such native of India, the amount thereof shall and may be levied in the same manner, and subject to the same regulations and provisions, in respect to the commitment of the debtor, as are hereinbefore made and provided in respect to the levying of fines in case of the conviction of a British subject before such magistrate."

See Act V 1840

CVII. [British subjects residing or trading or occupying immovable property, more than ten miles from the Presidency declared amenable to the courts established in the provinces in their civil jurisdiction.]—*Declared by Act XI., 1836, to cease to have effect from July 1, 1836, from which*

* Act XI., 1836, declares that no person shall, by reason of birth or descent, be excepted from the civil jurisdiction of the several courts from the Sudder Adawlut to the Principal Sudder Ameen inclusive.

date no person is to be exempt from the jurisdiction of the Civil Courts, from the Sudder Adawlut to the Principal Sudder Ameen inclusive, in the East India Company's territories, by reason of place of birth or descent.

British subjects allowed to reside more than ten miles from the Presidency shall procure and register certificate of such permission in the court of the district.

"CVIII.* And be it further enacted, that every British subject of His Majesty, not in the service of His said Majesty, or of the said United Company, who, after the tenth day of April, one thousand eight hundred and fourteen, shall go to, and reside in, any part of the British territories in India, distant more than ten miles from the Presidency to which the same shall be subordinate, with the permission of the Government of such Presidency, or who shall, after the said day, change his residence from one part thereof to another, distant as aforesaid, with such permission, shall procure from the chief secretary of the said Government or other officer authorized for that purpose, a certificate signed by the said chief secretary or other officer, expressing that such British subject has the permission of such Government to reside at such place, specifying the same, and expressing also whether such permission has been granted during the pleasure of such Government, or for any limited time; and the said certificate shall be deposited by such British subject in the Civil Court of the district in which he shall so go to reside, within one month after his taking up his residence there, and shall be kept among the records of the said court, of which certificate, so deposited, a true copy, attested by the judge or other officer of such court thereto authorized, shall be given to the party depositing the same, and shall be deemed and taken in all Courts of Justice, and on all occasions whatsoever, to be good and sufficient evidence of such certificate, unless the contrary shall be shewn; and no British subject not in the service of His Majesty, or of the said *United* Company, going to reside in any such part of the British territories, or changing his residence from one part thereof to another, after the said day, shall be allowed, while he so resides, to have or maintain any civil action or proceeding (other than in the nature of an appeal) against any person whomsoever in any Court of Civil Jurisdiction within the British territories in India, until he shall have filed, in the court in which such action or proceeding is commenced, a copy of such certificate signed by the judge of the court wherein the same is deposited, or an affidavit accounting to the satisfaction of the court for not filing the same; and if it shall be proved to the court in which such action is brought, that such British subject is residing at any place within the said territories, distant more than ten miles from the Presidency to which it is subordinate, without such certificate, or otherwise than according to the permission contained in such certificate, or that such permission has been revoked, or that, being for a limited time, it has expired and has not been renewed, and that such British subject is therefore residing without permission at more than ten miles' distance from such Presidency, such British subject shall thereupon be nonsuited."

And suing in any civil courts shall produce copy of such certificate, or an affidavit accounting for not filing it.

Substitute "East-India Company."

Natives of India in service of Company subject to Provincial Courts.

"CIX. And whereas doubts have been entertained whether persons being natives of India, in the service of the *United Company of Merchants*

* The provisions of this clause are modified by the eighty-first and two following clauses of the Act 3 & 4 William IV., c. 85, which allows British subjects to reside in the interior without special license, under certain provisions and restrictions.

of England trading to the East Indies, or of any of His Majesty's subjects, are amenable to the jurisdiction of the Provincial Courts established in the East Indies, or whether such persons, being natives of India, in the service of the said *United* Company, or of His Majesty's subjects, are not exclusively amenable to the jurisdiction of the said courts at Fort William, Madras, and Bombay respectively, and it is expedient that such doubts should be removed, be it further enacted and declared, that all persons whosoever, being natives of India, who have been, now are, or hereafter may be employed, by or in the service of His Majesty, the said *United* Company, or of any of His Majesty's subjects, were, and are, and shall be subject and amenable to all Provincial Courts of competent jurisdiction for all crimes and misdemeanors, and in all actions and suits whatsoever, of which such courts respectively could take cognizance, if the persons having committed such crimes or misdemeanors, or against whom the causes of such actions or suits shall have arisen, had not been employed by, or had not been in the service of his Majesty, or the said *United* Company, or any of his Majesty's subjects, any law, usage, or practice to the contrary thereof in any ways notwithstanding: Provided always, that nothing herein contained shall anywise oust the said Supreme Courts of Judicature of Fort William and Madras, and the said *Court of the Recorder** of Bombay respectively, of any jurisdiction over any natives of India, which such courts may now lawfully exercise; but such Supreme Courts of Judicature of Fort William and Madras, and the said *Court of the Recorder** of Bombay respectively, as well as the Provincial Courts herein referred to, according to their several jurisdictions, shall have a concurrent jurisdiction over natives of India, employed by or in the service of the said United Company, or any of His Majesty's subjects."

* Substitute "Supreme Court"

Admiralty jurisdiction of King's Courts extended

"CX. And whereas the courts established by the said *United* Company have no jurisdiction over crimes maritime, and doubts have been entertained whether the Admiralty jurisdiction of His Majesty's courts at Calcutta, Madras, and Bombay, extends to any persons but those who are amenable to their ordinary jurisdiction, by reason whereof failures of justice may arise; be it therefore enacted, that it shall and may be lawful for His Majesty's courts at Calcutta, Madras, and Bombay, exercising admiralty jurisdiction, to take cognizance of all crimes perpetrated on the high seas, by any person or persons whatsoever, in as full and ample a manner as any other Court of Admiralty jurisdiction established by His Majesty's authority in any colony or settlement whatsoever belonging to the Crown of the said United Kingdom."

Justices of the peace may qualify by taking the oaths in any court of justice within the Provinces — 33 Geo III., c. 52

"CXII. And whereas great inconvenience has arisen from requiring civil servants of the said *United* Company, and other persons stationed at a distance from the Presidencies, to attend and take the oaths in the Courts of Oyer and Terminer of the said Presidencies, as prescribed by the said Act of the Parliament of Great Britain of the thirty-third year of His Majesty's reign; be it therefore enacted, that all persons who shall be nominated and appointed in any such commissions of the peace as are in the said act mentioned, shall be capable of acting as justices of the peace in every respect, according to the tenor of such commissions, upon taking and subscribing in any Civil or Criminal Court of Justice, within the

See Act XVI, 1841.

provinces in and for which any such commission shall have issued, before any other justice of the peace, in the like oaths as are appointed by the said Act to be taken in the Court of Oyer and Terminer of the province or Presidency for which such persons shall be appointed to act as justices of the peace; and the subscription of such persons to the said oaths shall be deposited and kept with the records of the Courts of Justice in which the said oaths shall have been administered."

See Act XXIII., 1840, for additional provisions on this subject.

Provincial Courts of the highest jurisdiction may arrest in civil or criminal process within the Presidencies, notwithstanding the jurisdiction of King's Courts.

"CXIII. And whereas it is expedient that the Sudder Dewany Adawlut, and Nizamut Adawlut, or other Provincial Courts, however denominated, exercising the highest jurisdiction within the provinces respectively subject to the Governments of Fort William, Fort St. George, and Bombay, should have power and authority to execute process of arrest, either civil or criminal, within the towns of Calcutta and Madras, and the town and island of Bombay, notwithstanding the jurisdiction of His Majesty's courts established at those places respectively; be it therefore enacted, that it shall and may be lawful for the said Court of Sudder Dewany and Nizamut Adawlut, or other Provincial Courts aforesaid, to execute, or cause to be executed, upon all persons subject to the jurisdiction of such courts respectively, all manner of lawful process of arrest, within the respective limits of the towns of Calcutta and Madras, and of the town and island of Bombay, in the same manner as the said courts respectively may, by virtue of any power now vested, or hereafter to be vested in them, lawfully execute, or cause to be executed, such process in any place situate without the said limits; any act, charter, or other matter or thing whatsoever to the contrary notwithstanding: provided always, that all such process which shall be executed within the limits aforesaid shall be in writing, and shall have underwritten or endorsed thereon, or otherwise annexed thereto, a translation thereof, or of the substance thereof, in the English language and character, signed by one of the judges of the court from whence the same shall issue."

Process to be in writing, with an English translation, and signed by a judge.

A.D. 1820. REGULATION III.

A REGULATION* *to prohibit the Storing of Tobacco within twenty Miles of the Limits of the Madras Mettus, except by Licensed Venders:* PASSED *by the Governor in Council of Fort St. George, on the* 25*th August,* 1820, *corresponding with the* 12*th Avani of the year Vikrama,* 1742*nd year of Saliwahana, and with the* 15*th Zilkada,* 1225 *Hijra.*

Preamble.

THE clandestine introduction of tobacco into Madras from stores in the vicinity of the Presidency, the outrages with which this species of smug-

* The provisions of this regulation may, by an Order in Council, be extended to any principal town,—see Reg. IX., 1831, and rendered applicable to Ganjah and Bhang, see Act XIV., 1838.

gling has been attended, and the great loss of revenue which has in consequence been incurred, have rendered it necessary to regulate the mode in which tobacco shall be stored within a certain distance of the range of the Madras Mettus. The following rules have therefore been passed by the Governor in Council, to take effect from the date of their promulgation.

Limits prescribed within which tobacco shall not be stored, except for local consumption.

II. *First.* No person shall be allowed to store or have in his possession a greater quantity of tobacco than five viss, at any place in the zillah of Chingleput less than twenty miles beyond the limits of the Madras Mettus (as now or hereafter established), except the persons to be licensed by the collector of Chingleput under Section IV. of this regulation, to vend tobacco to the inhabitants of the places where they reside, and of its vicinity.

Tobacco stored in breach of the foregoing rule liable to confiscation.

Second. All tobacco stored in the possession of individuals, contrary to the foregoing rule, shall be liable to seizure and confiscation, in conformity with the ordinary rules for the seizure and confiscation of smuggled goods; except that from the proceeds of the sale of tobacco, one half only of the amount of duty shall be deducted, previously to the division thereof under the said rules.

The rule not to be applied to tobacco in transit accompanied with a rowanna.

III. *First.* The foregoing rules shall not be construed to warrant the seizure of tobacco, whatever may be its quantity, which is not permanently stored, but is in transit through the tract specified in Section II. of this regulation, although the same be temporarily lodged in a house or other building for security, provided such tobacco be accompanied by a rowanna, and accord in quantity and kind with the specification of those particulars in the said rowanna.

Rowannas for the protection of tobacco through the tract specified, how to be made out.

Second. The rowannas which the collector of Chingleput shall grant for the transit of tobacco, through the tract lying within twenty miles of the range of the Madras Mettus, shall specify the time during which they shall be in force.

Collector of Chingleput to license venders of tobacco for the supply of the tract specified.

IV. *First.* The collector of Chingleput is hereby authorized to grant to respectable individuals residing in the tract within twenty miles of the Madras Mettus, licenses, according to a form to be prepared by him, and approved by the Board of Revenue, authorizing the persons therein respectively named to store and to vend tobacco for consumption at the places where they so reside, and in their immediate vicinity.

Venders' engagements.

Second. Every person to whom such license shall be granted shall enter into an engagement, either in the cutcherry of the collector of the zillah of Chingleput, or in the cutcherry of the tahsildar of the talook, in a penal sum equal to ten times the value of the quantity of tobacco which he shall be allowed to store for sale, that he will not clandestinely introduce, nor connive at the clandestine introduction of any part of such tobacco into Madras, and that he shall forfeit, not only all the tobacco so clandestinely introduced, or attempted to be introduced, into Madras, but also all the tobacco that may be found in his licensed store.

Penalty for breach of those engagements.

Penalty for clandestinely removing tobacco from the licensed stores.

Third. Any person who, having obtained a license to store tobacco within the limits above described, shall be detected in clandestinely introducing, or conniving at the clandestine introduction of any part of the

tobacco so stored into Madras, or of removing, or permitting to be removed, any part of such tobacco from the store, except for use and consumption at the place of storing, shall forfeit the penalty of his engagement, and shall, moreover, be deprived of his license; and no other license to store tobacco shall thereafter be issued to him. The offender shall further be subject to such punishment as the existing laws shall prescribe for the offence of smuggling.

On receipt of this regulation, collector of Chingleput to take security from persons having stores of tobacco within the specified tract.

On failure of security, collector to have joint custody of such tobacco till it is duly disposed of

V. On receipt of this regulation, the collector of Chingleput shall be authorized to require from all persons having stores of tobacco within the limits specified in Section II. of this regulation, good and sufficient security that they will not clandestinely introduce, nor cause, nor permit the clandestine introduction of any part of the said tobacco into Madras; and in default of such security being given, the collector shall be at liberty to depute such officer of his establishment as he may think proper, to take an account of the quantity of tobacco so stored, and to have a joint custody thereof with the proprietor, until the said tobacco shall be removed under the collector's rowana, and conveyed to one of the chokeys within the limits of the Madras Mettus, or elsewhere, for sale or consumption, after payment of the prescribed duties.

A.D. 1821. REGULATION I.

A REGULATION *for empowering the Governor in Council, by an Order in Council, to establish and abolish Provincial and Zillah Courts, to extend and contract the Jurisdiction of the same, and to alter the Stations at which they are held, and the Order of Succession in the Jail-deliveries of the several Zillahs, in the Territories which are or may be subject to this Presidency:* PASSED *by the Governor in Council of Fort St. George, on the* 23*rd of January,* 1821, *corresponding with the* 12*th Tai of the year Vikrama,* 1742*nd year of Saliwahana, and with the* 18*th Rabi-us-sani,* 1236 *Hijra.*

Preamble.

As it is necessary, for the sake of public economy, for the convenience of the people, and for facilitating the distribution of justice, that, whenever it may be found expedient, the number of the Provincial and Zillah Courts should be increased or diminished, the stations of the several Provincial and Zillah Courts should be changed, the jurisdiction of those courts should be contracted or extended, and the order of succession in the jail-deliveries should be altered or modified; and, as it will be convenient that the Governor in Council should be empowered to make these changes, whenever they may appear advisable, by an order in council, the following rules have been enacted to be in force from the date of this regulation.

Provincial and *Zillah Courts* may be established or abolished, their stations altered, their jurisdiction extended or limited, *and the order of the jail-deliveries changed*, by an Order in Council.

II.* The Governor in Council is empowered, whenever he may deem it expedient, to establish or abolish *Provincial* and *Zillah* Courts of Judicature, to alter the stations of the *Provincial* and *Zillah* Courts, to extend or contract the limits of the jurisdiction of those courts, [*and to change and modify the order of succession in the jail-deliveries of the several zillahs*] in the territories which are or may be subject to this Presidency, by an order in council, under the signature of the chief secretary† to Government, without enacting a regulation for that purpose.

† Or either of the secretaries, see Act II., 1834.

Depending suits to be transferred to the new jurisdiction.

III. All suits which may have arisen within such part of the local jurisdiction of any *Provincial* or *Zillah* Court as may be changed or modified, in virtue of the power granted for that purpose in the foregoing section, and which may then be depending, shall, with the documents relating thereto, be transferred to the court acquiring jurisdiction over the same.

All contrary provisions rescinded.

IV. Such parts of any regulations now in force as may be contrary to this regulation are hereby rescinded.

* This regulation is superseded as regards Provincial Courts and the Zillah Courts existing at the time of its enactment, by the abolition of those courts under the provisions of Sec. i., Act VII., 1843. The power of abolishing or altering the station or jurisdiction of the new Zillah Courts established under Act VII., 1843, is declared in Sec. liii. of that Act. Similar power in respect of the Subordinate Courts is given to the Governor in Council of Fort St. George by the extension of Sec. ii. of this Regulation to the Auxiliary Courts by Clause 2, Sec. ii., Reg. I., 1827, and to the court of the Principal Sudder Ameen by Sec. iii., Reg. VII., 1827. In respect of jail-deliveries, referred to in Sec. ii., see preliminary Note to Reg. II., 1831.

A.D. 1821. REGULATION II.

A REGULATION *for extending the Jurisdiction of the Registers, Sudder Ameens, and District Moonsifs, and for the more effectual checking of Abuses by District Moonsifs:* PASSED *by the Governor in Council of Fort St. George, on the* 13*th April*, 1821.

Preamble.

WHEREAS the administration of justice in the provinces will be greatly facilitated by an extension of the jurisdiction of the registers, the sudder ameens and district moonsifs, in regard to the amount and value of property which may be adjudicated upon by them respectively; and whereas it is expedient to provide more effectually for the investigation of abuses which may be alleged to have been committed by district moonsifs—the Honourable the Governor in Council has enacted the following regulation to be in force from the date of its promulgation.

II. [Jurisdiction of registers extended to 1,000 rupees.]—*Superseded; the office of zillah register no longer existing.*

III. [Amount referrible for trial to sudder ameens extended to 750 rupees.]—*Superseded by Section IV., Regulation III.*, 1833.

IV. [Jurisdiction of district moonsifs extended to 500 rupees.]—*Superseded by Section V., Regulation III.*, 1833.

V. [Compensation to district moonsifs.]—*Rescinded by Section II., Regulation II.*, 1834.

Collectors to make preliminary inquiry into alleged abuses on the part of district moonsif; and if grounds exist for the charge, they are to bring it to the notice of the zillah judge.

VI. Whenever a collector, or a subordinate or assistant collector, shall receive information of any acts of extortion, undue exaction, or other gross misconduct alleged to have been committed by a district moonsif, he shall make such inquiries as the nature of the case may suggest, for the purpose of ascertaining whether any grounds exist for a more full and formal investigation of the charge; and if he shall find such grounds to exist, he shall forward a statement of the case, together with the list of witnesses to the facts and circumstances thereof, to the zillah judge, in order that he may proceed in regard to the accused in the mode prescribed by Section VII., Regulation VI. of 1816.

A.D. 1821. REGULATION III.

A REGULATION *for determining the Rate of Duty on Opium exported or imported by Land to or from any of the Foreign European Settlements adjoining the Territories subject to the Presidency of Fort St. George:* PASSED *by the Governor in Council of Fort St. George, on the* 15*th June,* 1821.

[Rescinded by Section I., Act VI., 1844.]

A.D. 1821. REGULATION IV.

A REGULATION *for giving greater Efficiency to the System of Police established in the Provinces subordinate to the Presidency of Fort St. George:* PASSED *by the Governor in Council of Fort St. George, on the* 15*th June,* 1821.

Preamble.

WHEREAS it is expedient that the ameens of police should have authority beyond the limits of the towns to which they are appointed; and whereas

it is also expedient that the preliminary powers of investigation for the discovery of offences and the apprehension of offenders, which are now vested only in tahsildars, or other head officers of district police, should be delegated to competent subordinate officers in different parts of each talook; and whereas the transmission of parties and witnesses, in all cases of petty theft and other petty offences, from the place where the offence is charged to have been committed to a distance therefrom, in order to their being brought before the magistrate, is a cause of great inconvenience, loss, and injury to the persons so sent, and there is reason to believe that, in consequence of the dread of such inconvenience, the knowledge of offences committed is frequently concealed and suppressed and the offenders escape punishment, and it is therefore expedient that the powers of the heads of district and village police should be extended; and whereas the recording of evidence in cases of petty offences and petty thefts is a duty of great labour and time without an equivalent benefit; and the too frequent administration of oaths, where the matter under inquiry is of little moment, has a tendency to weaken the sanctity of oaths and to encourage perjury—the Honourable the Governor in Council has enacted the following rules to be in force from the date of their promulgation.

The authority of ameens of police may be extended beyond the limits of the towns to which they are appointed.

II. *First.* In modification of the provisions of Section XL., Regulation XI. of 1816, it is hereby declared competent to magistrates to extend, at their discretion, the local limits of the jurisdiction of ameens of police to any distance they may see fit beyond the towns to which such ameens have been or may be appointed.

Ameens of police subject to the authority of tahsildars and liable to perform revenue duties.

Second. Ameens of police, and generally all subordinate officers of police of every description, shall be subject to the authority of the tahsildars of their several districts, and shall perform all such revenue duties as may be assigned to them by the collectors or tahsildars under whom they serve.

Subordinate officers to be authorized to make inquiry of offences, arrest of offenders, take inquests, &c.

III. *First.* Magistrates shall select such number of competent subordinate officers, belonging to their district establishments, as may appear to them necessary, to perform in different parts of each talook the police duties assigned to tahsildars and other head officers of police, by Sections XXVII., XXVIII., XXIX., XXXI., XXXII., XXXVI., and XXXVII., of Regulation XI. of 1816; and all acts done in conformity with the provisions of the enactments here referred to by the persons so selected shall be valid.

Subordinate officers to forward their proceedings to the heads of district police.

Second. The subordinate officers referred to in the foregoing clause shall forward to the heads of police of their respective districts all examinations, depositions, and confessions that may be taken by them, together with the prisoners and witnesses in every case which they may investigate, in order that the said heads of police may transmit them to the magistrate or the *criminal judge*, in conformity with the existing regulations.

Officers appointed under this section not authorized to punish in any case.

Third. The persons who may be selected under the provisions of this section shall not have authority to inflict punishment of any kind, nor to hear or determine complaints for petty offences, and they shall be subject to the authority of the tahsildars of their respective districts.

Heads of district police authorized to punish

IV. *First.* Heads of district police are hereby empowered to hear and

determine cases of petty theft, not attended with aggravating circumstances, nor committed by persons of notoriously bad character, and, on conviction of the accused, when the value of the property stolen shall not exceed five *Madras* rupees, to inflict punishment not exceeding [*six strokes with a rattan.*]

petty thefts not exceeding five rupees.

Rescinded, see Sec. v., Reg. XIII., 1832.

Punishment they may inflict.

Second. Whenever a head of district police, investigating under the authority vested in him by this section, shall be of opinion that the punishment which he is empowered to inflict is not adequate to the offence committed, he shall report the case to the magistrate for his final orders, and the magistrate shall, at his discretion, either issue his orders in writing to the head of district police to inflict such punishment as the magistrate may deem sufficient, or he shall order the head of district police to forward the parties and witnesses to him for further investigation.

If greater punishment appear requisite, a report of the case to be made to the magistrate, who will issue his orders.

See Sec. ii., Act XXXIII., 1837.

Third. Provided always, that if, at the expiration of thirty days from the date and day of despatch of any reference from a head of district police to a magistrate, under the provisions of the foregoing clause, no answers or orders of the magistrate shall have been received by the head of district police, then the head of district police shall release the offenders, and the confinement which they have so had shall be considered a sufficient punishment for the said offence, and they shall not be liable to be again tried for the same.

If no orders on the reference are given by the magistrate, the accused to be released, and the imprisonment deemed a sufficient punishment.

Fourth. Heads of district police shall report to the magistrate, in the mode prescribed by Clause Second, Section XXXIII., Regulation XI. of 1816, all punishments which they may inflict under the provisions of Clause First of this section.

Heads of district police to report punishments inflicted by them under this section.

V. *First.* The power granted to the tahsildars or other heads of district police by Section XXXIII., Regulation XI. of 1816, of fining persons duly convicted before them of offences of a trivial nature, is hereby extended to the imposition of a fine not exceeding three *Madras* rupees.

Heads of district police may fine to the extent of three rupees.

See Clause 2, Sec. v., Reg. XIII., 1832.

Second. In cases of injury to any complainant, when the fine may have been levied, it shall be lawful for the head of district police to award the whole, or any portion of such fine, to the party aggrieved, by way of satisfaction for such injury, as he may deem equitable, the remainder of such fine, if any, to be carried to the account of Government.

And may give the fine, or part thereof, as compensation to an injured party.

Third. Head officers of district police shall make immediate report to the magistrates of all cases in which they shall exercise the power of fining under this section.

Immediate report of fines to be made by heads of district police to the magistrates.

VI. *First.* The powers granted to heads of villages, under Clause First, Section X., Regulation XI. of 1816, to punish trivial offences, are hereby extended, under the rules and limitations therein specified, to the punishment of petty thefts, not attended with aggravating circumstances nor committed by persons of notoriously bad character, and where the value of the property stolen does not exceed one *Madras* rupee.

Heads of villages authorized to punish petty thefts not exceeding one rupee.

Second. Heads of villages shall report to the head police officer of the district all cases in which they shall have exercised the power of punishment granted to them by Clause First of this section.

Such punishment to be reported to the head of district police.

VII. *First.* Section XXXVII., Regulation IX. of 1816, is hereby rescinded.

Rescission.

Magistrates relieved from taking written evidence in petty complaints.

*Second.** [*Magistrates shall not be required to take down in writing or to record the examinations they may take in the investigation of complaints preferred before them under Sections XXXII. and XXXIII. of Regulation IX. of* 1816.]

VIII. [Magistrates need not return in calendars, under Section XL., Regulation IX., 1816, the punishment they may inflict under Section XXXII., nor certain punishments under Section XXXIII., Regulation IX., 1816.]—*Rescinded by Section II., Regulation VIII.*, 1832.

A discretionary power granted to magistrates in regard to the administration of *oaths* in certain cases.

IX. Magistrates and their assistants shall be at liberty, in the examination of complaints for petty offences and of complaints for petty thefts, to exercise their discretion whether to administer *oaths* to the prosecutors and witnesses, or to examine persons without their being sworn. See Act V. 1840.

Heads of district police not required to record evidence in certain cases.

X. The same exemption from the necessity of recording depositions is hereby granted to tahsildars and other head police officers of districts in the examination of cases on which it is competent to them to pass decision.

* Rescinded by Sec. ii., Reg. VIII., 1832, in which other rules are enacted as regards magistrates; but see Sec. x. of this Regulation.

A.D. 1821. REGULATION V.

A REGULATION *for authorizing Collectors to Rent out the Levy of the Inland Duties in the Districts under their Management; for rescinding Regulation XIV. of* 1809; *and for modifying some of the Rules of Regulation I. of* 1812: PASSED *by the Honourable the Governor in Council of Fort St. George, on the 29th June*, 1821.

[This regulation, excepting the following section, is superseded by the abolition of the inland duties under Act VI., 1844.]

Rescission of Regulation XIV. of 1809.

V. Regulation XIV., A.D. 1809, is rescinded, and the articles of saltpetre and gunpowder will be passed with the same rowanna as all other goods; the transit of the latter article is, however, to be subject to the restriction declared in Section XV., Regulation I. of 1812.

A.D. 1821. REGULATION VI.

A REGULATION *for the better Order and Discipline of Military Bazars, and for the prevention of Drunkenness among Soldiers; and for rescinding Regulation VI. of* 1809 *and Regulation III. of* 1810: PASSED *by the Honourable the Governor in Council of Fort St. George, on the* 28*th August,* 1821.

[Rescinded by Section II., Regulation VII., 1832.]

A.D. 1822. REGULATION I.

A REGULATION *for the more exemplary Punishment of Robbery by Open Violence:* PASSED *by the Honourable the Governor in Council of Fort St. George, on the* 5*th March,* 1822.

[Rescinded by Section II., Regulation I., 1825.]

A.D. 1822. REGULATION II.

A REGULATION *to provide for the more effectual Administration of Criminal Justice in certain Cases, and to alter certain Provisions of the Regulations now in force:* PASSED *by the Honourable the Governor in Council of Fort St. George, on the* 2*nd April,* 1822.

Preamble.

THE provisions contained in Sections XIII., XIV., and XVIII., Regulation X. of 1816, which prescribe that the criminal judges shall cause to appear before the Court of Circuit all witnesses required by persons committed for trial, having been found to operate to the obstruction of public justice, and to the injury of individuals, by the abuse on the part of prisoners of the privilege of summoning witnesses, it is therefore desirable that this privilege should be subjected to certain restrictions; it is also considered advisable that provision should be made for authorizing magistrates to apprehend vagrants, suspicious persons, and persons without visible means of honest livelihood, and persons of notoriously bad character, and, under certain rules and restrictions, to commit them to the custody of the criminal judge; and that authority should be given, under certain rules and restrictions, to the criminal judges to require security from par-

ties against whom there may be ground for strong presumption, though not full proof, of a specific offence; it is further deemed requisite for the ends of justice to modify and extend the provisions contained in Regulation VI. of 1811, for the punishment of persons convicted of forgery, or causing forgery; and to render the restriction contained in Section XXIX., Regulation IX. of 1816, against prosecutions of witnesses and parties in the Civil Courts for perjury and subornation of perjury, unless the officers presiding in those courts shall be of opinion that there are grounds for such prosecutions, applicable to all charges of perjury, or subornation of perjury, against witnesses and prosecutors in the Criminal Courts; and it further appears expedient to rescind such part of Section XX., Regulation XIII. of 1816, as requires that petitions addressed to the Criminal Courts shall be written on stamped paper,—the following rules have therefore been enacted, to be in force from the date of their promulgation.

Criminal judges to have a discretionary authority in regard to summoning witnesses on behalf of prisoners who have confessed.

II. *First.* Whenever a prisoner who may confess before the *criminal judge* the offence with which he is charged, or may confirm a former confession thereof, shall require witnesses to attend on his behalf before the *Court of Circuit*, it shall be discretionary with the *criminal judge* to cause the attendance of any such witnesses, or not, according as it may or may not appear, from the nature of the case, that it admits of palliatory evidence.

Criminal judges may limit the number of witnesses to be summoned on behalf of prisoners not confessing.

Second. In all other cases when a prisoner may desire the attendance of more than two witnesses on his behalf, the *criminal judge* is hereby authorized to question the prisoner as to the facts which he wishes to establish by their testimony. Whenever it may appear that the testimony required is irrelevant to the prisoner's defence, the *criminal judge* shall not comply with the requisition of the prisoner; and when several distinct facts are required to be established, which may be material to the defence, the *criminal judge* shall have authority, if he see proper, to summon only two witnesses to each point.

Criminal judges to record their reasons for refusing to summon witnesses desired by prisoners.

The *judges of circuit* on perusal of the proceedings shall call for any further procurable evidence considered to be material to a prisoner's defence, and eventually postpone the trial.

Third. The *criminal judge* shall record on his proceedings the grounds on which he may exercise the discretion vested in him by this regulation, of refusing to summon a witness or witnesses on behalf of a prisoner to appear before the *Court of Circuit.* The *judge of Circuit, on his arrival at the zillah station*, shall peruse the proceedings held against any prisoner or prisoners who may have required the attendance of witnesses not summoned, and if it shall appear to him that procurable evidence, material to a prisoner's defence, has not been called, he shall require the attendance of the witness or witnesses, if it be probable that their attendance can be procured in time to admit of their evidence being taken *before the close of the sessions;* and should the attendance of such witness or witnesses not be procurable within that period, he shall postpone the trial until the *ensuing sessions of jail delivery*, and issue the necessary orders on the subject to the *criminal judge.*

Modified by Sec. XXX., Act VII., 1843.

Magistrates and heads of district police authorized to apprehend vagrants.

Magistrates may commit vagrants, or take security from them.

III. *First.* It shall be competent to the magistrate, and to the heads of district police acting under his orders, to apprehend, when it may seem proper, any vagrant or suspicious person, or person without ostensible means of honest livelihood, or person of notoriously bad character; and the magistrate at his discretion shall either take security for the appear-

Modified and enlarged by the sixth and following sections of Reg. VI., 1827.

ance of such person, or issue his warrant for such person to be received and detained in the custody of the *criminal judge*.

Court of Circuit may release persons so confined.

Second. It shall however be competent to the *judge of circuit, at any sessions of jail delivery*, after making such inquiry as he may deem satisfactory, to order the release of any person so confined, either with or without security for his future appearance and good behaviour.

Magistrates may also release persons so confined.

Third. Persons so confined shall also be liable to be released at the discretion of the magistrate by whom they were committed.

Criminal judges may require security from persons strongly suspected, though not convicted, of criminal offences.

IV. *First.* In all cases brought before a *criminal judge*, where adequate proof for conviction of a specific offence may not be adduced against a prisoner, but he shall appear to be under strong suspicion of any act of criminality, it shall be competent to the *criminal judge* to direct that such prisoner be detained in custody until he shall give sufficient security for his future good behaviour and appearance when required.

Modified and enlarged by the sixth and following sections of Reg. VI., 1827.

Criminal judges to report to the *Courts of Circuit* all instances of the exercise of the power given them above.

*Second.** Whenever a *criminal judge* may exercise the authority vested in him by the foregoing clause, he shall submit a report to the *Court of Circuit at the ensuing sessions of jail delivery*, specifying the names of persons confined by him on a requisition of security which they may have been unable to furnish, the circumstances of each case, with the proceedings held thereon, and the amount of security required.

Court of Circuit empowered to release persons so imprisoned and to reduce the amount of security required.

*Third.** The *judge of circuit*, after inspecting the proceedings, and making any further inquiry deemed necessary, shall pass such order as may appear just and proper, either for the release of the prisoner on his moochulka, or for reducing the amount of security required (if this appear excessive), or for the further detention of the prisoner.

Modification of Regulation VI. of 1811.

V. *First.* The provisions contained in Regulation VI. of 1811, for the punishment of persons convicted of forgery, or procuring forgery, are hereby declared subject to the following modifications.

Persons convicted of having forged, or procured to be forged, counterfeit coin, to be sentenced to tasheer and to receive 30 stripes, and be banished for 14 years.

Second. The *judge of circuit* before whom a prisoner may be convicted of having forged, or procured to be forged, any counterfeit coin in imitation of any of the gold, silver, or copper coins of the British Governments in India, or of any coin usually received as money in the British possessions in India, shall, provided he concur with the law officer in the conviction of the prisoner, sentence him to be publicly exposed in the mode commonly denominated tasheer, to receive *thirty stripes with a rattan*, and to be imprisoned in banishment from the district for the period of fourteen years, unless the *judge of circuit*, on consideration of all the circumstances of the case, shall be of opinion that any part of the prescribed punishment is too severe, in which case he shall be authorized to mitigate the sentence to imprisonment with or without tasheer for any period not less than seven years.

See Reg. VI., 1829.

See Reg. VIII., 1828.

The *judge of circuit* may, on sufficient grounds, pronounce a mitigated sentence.

In certain cases, the trial to be referred to the Foujdarry Adawlut.

Third. If in any instance the *judge of circuit* shall be of opinion that a further mitigation or remission of punishment is necessary, he shall, provided he concur in the conviction of the prisoner, pass sentence according to the preceding clause, and refer the trial, with his sentiments at large, for the final sentence of the Court of Foujdarry Adawlut, who shall have authority to mitigate the sentence at their discretion.

* Specially declared applicable to Session Judges by Sec. xxxvii., Act VII., 1843.

Persons convicted of uttering counterfeit coin to be sentenced to imprisonment for seven years.

VI. *First.* Any person who shall be convicted before a *Court of Circuit*, or the Court of Foujdarry Adawlut, of paying, or tendering in payment, counterfeited coin, knowing the same to be counterfeit, shall be sentenced to imprisonment for such period, not exceeding seven years, as the *judge of circuit*, or the Court of Foujdarry Adawlut, may deem adequate to the circumstances of the case; and shall also, in all instances of an aggravated nature, or of a repetition of the offence, after being once convicted and punished, be sentenced to public exposure by tasheer. In every instance of a repetition of the offence after a previous conviction and punishment, the *judge of circuit* shall further, at his discretion, sentence the offender to receive corporal punishment not exceeding *thirty stripes with a rattan.*

See Sec. iv., Reg. VI., 1827

Punishment on a repetition of the offence.

See Reg VIII., 1828

The foregoing provisions declared applicable to cases of clipping or defacing the coin.

Second. The provisions in the preceding clause are declared applicable to persons convicted of clipping, filing, drilling, defacing, or debasing the gold or silver coin of the British Government in India, or any coin usually received as money within the British possessions in India.

Persons convicted of having in their possession counterfeit coin punishable by fine.

VII.* If any person subject to the jurisdiction of a zillah magistrate shall be convicted of having in his or her possession any counterfeited coin, and shall not shew good and sufficient cause for having such counterfeit coin in his or her possession, the person so convicted shall be sentenced by the magistrate to pay a fine equal to four times the nominal value of such counterfeit coin in his or her possession; one moiety of which fine shall, on receipt of it, be given to any informer or informers who may have given information of the offence, and established the truth of it. In the event of such fine not being paid, the person convicted shall be confined in the zillah jail for such period as the magistrate may direct, not exceeding six months.

Distribution of the fine.

Imprisonment if the fine be not paid.

The restriction regarding the commitment of persons for perjury before civil courts declared applicable to the same offence before criminal courts.

VIII. The restriction contained in Section XXIX., Regulation IX. of 1816, against prosecutions of witnesses and parties in the Civil Courts for perjury and subornation of perjury, unless the officers presiding in those courts shall be of opinion that there are grounds for such prosecutions, is hereby extended to all charges of perjury, or subornation of perjury, against witnesses and prosecutors in the Criminal Courts.

Extended to collectors and principal sudder ameens by Cl 3, Sec. iii., Reg VIII., 1829

The criminal courts authorized to receive petitions on unstamped paper.

IX. In modification of the provisions contained in Section XX., Regulation XIII. of 1816, it is hereby enacted, that petitions on unstamped paper shall be received by the *criminal judges, the assistants to the criminal judges, the Courts of Circuit*, and the Court of Foujdarry Adawlut.

* The making or possessing implements for coining is punishable under Sec. iv., Reg. VI., 1827.

A.D. 1822. REGULATION III.

A REGULATION *for extending the Operation of Regulation VII. of* 1818: PASSED *by the Honourable the Governor in Council of Fort St. George, on the* 28*th May*, 1822.

Preamble.

WHEREAS under the provisions of Regulation VII. of 1818, no persons can be admitted to appeal, or to answer in appeal as paupers, excepting such as have originally sued as pauper plaintiffs; and whereas cases have occurred in which parties in original suits, as well plaintiffs as defendants, have become paupers before the filing of a petition of appeal; and it is deemed just and proper to admit such persons to the benefit of the pauper regulation; and whereas it is proper that special appeals should be admitted in pauper cases under the general restrictions prescribed regarding such appeals,—the Governor in Council has been pleased to enact the following regulation, to be in force from the date of its promulgation.

Original plaintiffs, not paupers, admissible to appeal as paupers.

II. *First.* Plaintiffs in original suits who did not sue as paupers shall be admissible to appeal in formâ pauperis from the judgments passed in such original suits.

Original defendants admissible to appeal as paupers.

Second. Defendants in original suits shall be admissible to appeal in formâ pauperis from the judgments passed against them in such suits.

Such persons are to be so admitted in conformity with the general rules of the pauper regulation.

Third. The admission of persons to appeal, or defend in appeal, under the foregoing clauses, shall be in conformity with the rules prescribed in Sections V. and VI., Regulation VII. of 1818, for persons desirous of being admitted to plead as paupers in original suits, and subject to the restrictions contained in Section X. of that regulation in respect to the admission of appeals from pauper plaintiffs.

See, also, Reg. IV., 1825.

The courts to satisfy themselves of the bonâ fide poverty of persons applying to appeal under this regulation.

Fourth. It shall be the duty of the court competent to admit the appeals in the cases above provided for, to satisfy themselves, in the event of objections being made by the other party to the admission of the applicant as a pauper, that the property of which the said applicant was possessed at the time when the original suit was instituted has passed from his hands, or has otherwise been rendered unavailable to him, either by the operation of the judgment from which he is desirous of appealing, or of some other judgments, or generally of causes over which he had no control.

The rules of the pauper regulation, with the present modifications, declared applicable to special appeals.

See Act III., 1843.

III. The rules contained in Regulation VII. of 1818, with the modifications thereof provided in this regulation, are hereby declared to be applicable to the admission of special appeals.

A.D. 1822. REGULATION IV.

A REGULATION *declaring the true Intent and Meaning of Regulations XXV., XXVIII., and XXX. of* 1802, *so far as they relate to the Rights of the actual Cultivators of the Soil:* PASSED *by the Honourable the Governor in Council of Fort St. George, on the* 12*th day of July,* 1822.

Preamble.

DOUBTS having occurred regarding the meaning and construction of the regulations enacted for insuring the prompt realization of the rents due and payable by the actual cultivators of the soil, either to the officers of Government on the public account, or to zemindars or others entitled to receive the same by inheritance or purchase, or in virtue of special grants issued by the ruling authority on terms of a permanent or temporary settlement of the land revenue; it has become necessary for Government to declare, that in passing those regulations it had no intention of authorizing any infringement or limitation of any established rights of any class of its subjects whatsoever, such rights being properly determinable by judicial investigation only. The Honourable the Governor in Council has therefore been pleased to pass the following regulation.

Regulations XXV., XXVIII., and XXX. of 1802 declared not to define or infringe the rights of landholders or tenants.

II. It is hereby declared that the provisions of Regulations XXV., XXVIII., and XXX. of 1802, were not meant to define, limit, infringe, or destroy, the actual rights of any description of landholders or tenants; but merely to point out in what manner tenants might be proceeded against, in the event of their not paying the rents justly due from them, leaving them to recover their rights, if infringed, with full costs and damages, in the established courts of justice.

A.D. 1822. REGULATION V.

A REGULATION *for vesting in Collectors authority to take Primary Cognizance in certain cases of Suits cognizable summarily by the Zillah Courts under Regulations XXVIII. and XXX. of* 1802, *and otherwise modifying the Provisions of those Regulations; for rescinding Regulation XXXII. of* 1802, *and for vesting in Collectors the Summary Cognizance of Cases which, under that Enactment, were cognizable by the Zillah Courts; and for authorizing Collectors to refer all such Suits to Punchayets for decision; and for extending the Provisions of Regulation XII. of* 1816: PASSED *by the Honourable the Governor in Council of Fort St. George, on the* 19*th of July,* 1822.

Preamble.

WHEREAS the provisions of Regulations XXVIII. and XXX. of 1802 have been found insufficient for the due protection of the ryots, inasmuch

as the powers they vest in landholders are prompt and summary, while efficient redress for the abuse of those powers must frequently be sought by the institution of a regular suit, to the expense of which the means of ryots in general are inadequate; and it has been deemed expedient to vest collectors with authority to take primary cognizance of all cases which, under the provisions of those regulations, are cognizable by summary suit in the Courts of Adawlut, provided the officers of Government are not parties in the case, and to authorize the said collectors to enforce in the first instance the penalties prescribed by those regulations, their decisions being subject to revision by the Civil Courts when parties may choose to have recourse thereto: and whereas the provisions of Regulation XXXII. of 1802 do not afford a remedy sufficiently prompt in cases of sudden and violent disputes respecting the occupancy, cultivation, or irrigation of land, and it is expedient to rescind that regulation, and to refer to the collectors of the revenue the summary inquiries which under it were conducted by the Adawlut of the zillah: and whereas disputes, as well regarding arrears of rent and rates of assessment as regarding the occupancy and cultivation of land, may occasionally be adjusted by punchayets to the relief of the ryots and the furtherance of the ends of justice: and it is deemed proper to enable collectors, with the consent of the parties, to refer all such cases to punchayets for decision, and to extend the provisions of Regulation XII. of 1816,—the Honourable the Governor in Council has therefore enacted the following rules, to be in force from the date of their promulgation.

Collectors authorized to take primary cognizance of suits of the nature of those summarily cognizable by the *Zillah* Courts under Regulations XXVIII. and XXX. of 1802.

II. *First.* Collectors are hereby authorized to take primary cognizance, by summary process, of all cases which, under the provisions of Regulations XXVIII. and XXX. of 1802, were summarily cognizable by the *Zillah* Courts, with the exception of the cases referred to in Sections XXXV. and XL., Regulation XXVIII. of 1802; and they shall have power to assess such damages, penalties, and costs as may appear to them proper, but not exceeding in any case the amount limited in the particular provision of the regulation under which each case was respectively cognizable in the *Zillah* Courts.

No damages or costs to be levied till the period for appeal has elapsed.

Second. Provided, however, that no damages, penalties, or costs which a collector may award under this section, shall be levied until after the expiration of the period hereinafter limited during which an appeal may be preferred against the said collector's decision.

Property attached for arrears not saleable unless pottahs have been exchanged or tendered.

III. *First.* No property attached under Regulation XXVIII. of 1802, for the discharge of arrears of rent or revenue, shall be sold unless pottahs shall have been granted, or tendered and refused, nor until previous notice shall have been given to the collector of the district, and leave shall have been obtained from him for the sale.

Penalty for breach of the foregoing rule.

Second. Where property may be sold contrary to this rule, the defaulter shall be discharged of the arrear for which such attachment has been made, the property attached shall be restored to him, or the value thereof made good by the distrainer, where it may have been damaged or injured or may not be forthcoming, and distrainers shall further pay damages, not exceeding the loss sustained in consequence of such attachment, with costs of suit.

Notice of property seized for arrears to be immediately given to collectors.

IV. *First.* When property may be attached for arrears of rent or revenue under Regulation XXVIII. of 1802, the distrainer shall, without delay, give notice thereof to the collector, either direct, or through the tahsildar, or the principal revenue officer of the district.

Appeals against distraint may be made within 30 days.

Second. Property so distrained shall not be sold until the expiration of thirty days from the day on which the notice of attachment referred to in the preceding clause was given; and until the expiration of that time the defaulter shall be at liberty to appeal to the collector against the distraint of his property.

After thirty days, and no appeal, the property attached may be sold.

Third. If no appeal be made, the distrainer shall have authority, at the expiration of the thirty days after notice given as above provided, to cause the distrained property to be sold in conformity with the regulations.

In case of appeal, collectors to hold a summary inquiry.

Fourth. If an appeal be made, the collector shall, without delay, institute a summary inquiry into the correctness of the demand for which the property has been attached; and if it shall appear that the amount claimed is justly due, he shall issue his order for the sale of the property to the *district moonsiff*, or other authorized person. If a sum less than the amount demanded shall appear on inquiry to be due, the collector shall order so much property only to be sold as may be sufficient to discharge the debt. See Act VII., 1839.

If notice of distraint be not given to the collector, the defaulter shall be discharged of his arrear.

Further penalty.

Fifth. When notice shall not have been given of property attached for arrears of rent or revenue, as provided in Clause First of this section, within thirty days after the attachment, the defaulter shall be discharged from the arrear for which the distraint was made, and the distrainer shall be subject to the penalties prescribed in Clause Second, Section III. of this regulation.

Periods of notice, how to be reckoned.

V. The periods of the fifth and eighth day referred to in Section XXI., Regulation XXVIII. of 1802, shall be calculated from the day on which the order of the collector for the sale may reach the village where the property is under attachment.

If a defaulter be about to abscond, the proprietor may apply to the district moonsif or tahsildar.

VI. In the cases stated in Clause Second, Section XXXIV., Regulation XXVIII. of 1802, where there may be reason to apprehend the immediate elopement of the defaulter or his surety, the proprietor or farmer shall present the petition prescribed in that section to the *district moonsiff* or tahsildar, who shall proceed thereon as the native commissioner is directed to proceed by the said clause. See Act VII., 1839.

Certain penalties when levied to be paid to the ryots on whom exactions have been made.

VII. Whenever the penalties for exactions referred to in Section VII., Regulation XXX. of 1802, shall be levied, the amount of the exaction shall be returned to the ryot, together with such further proportion of the penalty as may appear a reasonable compensation for the injury sustained; provided, however, that such penalties shall be held in deposit during the period limited for appeal by Clause First, Section XVI. of this Regulation.

Proprietors not to grant lands of ryots under Section X., Regulation XXX. of 1802, without leave from the collector.

VIII. *First.* The lands of under-farmers or ryots shall not be granted to other persons by proprietors or farmers under the provisions of Section X., Regulation XXX. of 1802, until such proprietors or farmers shall have made application to the collector, and obtained his leave for that purpose.

Second. If the collector on examination find the rates of the pottah tendered by the proprietor or farmer to be just and correct, the under-farmer or ryot shall be ejected, under the collector's order, unless he assent to the terms; but if the rate shall exceed the just rate prescribed, an order shall be issued by the collector to the proprietor or farmer, prohibiting the ejectment, and requiring the issue of a pottah within one month from the delivery of the order to him, under penalty for delay as provided in Section VIII., Regulation XXX. of 1802.

If just rates have been offered by the proprietor and refused, the collector shall sanction the ejection of the ryot; if otherwise, collector how to proceed.

IX. Suits preferred in the *Zillah* Court for arrears of rent or revenue from under-farmers or ryots, or their sureties, where no pottah has been granted, shall be dismissed with costs, unless it shall be proved to the satisfaction of the judge that a pottah had been tendered and refused, or that both parties had agreed to dispense with the use of pottah and mochulka.

Suits for arrears to be rejected by courts unless the tender of a pottah, or the mutual consent of parties, be proved.

X. Regulation XXXII. of 1802 is hereby rescinded.

Rescission.

XI. Whenever any persons who may lay claim to lands or crops in the possession of others shall forcibly take possession of the disputed lands or crops, the party dispossessed shall be at liberty to bring the case before the collector of the district, who, upon proof of such forcible ejection, and of the actual previous possession by such ejected party, shall cause the disputed lands or crops to be restored to the complainant, or the value of the crops to be paid to him, if they shall be damaged, destroyed, or not forthcoming; and shall further award against the offender such costs and damages as may be equitable.

Persons forcibly dispossessed of their lands or crops to bring their case before the collector, and how he is to proceed thereon.

XII. *First.* Where claimants of disputed lands or crops, or other persons assisting such claimants, may in taking or attempting to take forcible possession of the disputed lands or crops, kill or wound, or violently beat any person, the collector shall take cognizance of such violent acts as magistrate, and shall proceed according to the regulations and circumstances of the case, forwarding the offenders, and all persons aiding or assisting them in the act, to the *criminal judge,* to be by him dealt with according to the provisions of the general regulations.

Claimants of disputed lands or crops using force and causing death or any personal injury thereby to be forwarded to the *criminal judge.*

Second. The *criminal judge* shall exercise his discretion in granting to parties injured by the violent acts of claimants of disputed lands, the whole or any part of the fine which they may levy from the aggressors under the preceding clause.

Criminal judge may grant to the injured parties a portion of any fine levied.

XIII. Where the agents, servants, or dependants, or other persons in the employment of claimants of disputed lands or crops, may take, or attempt to take, possession thereof by force, and the actual claimant may not be present, the *criminal judge* shall proceed against the parties actually present in the manner herein directed, in the event of their having killed, wounded, or violently beaten any person. Where it may be proved that the parties immediately concerned in taking, or attempting to take, possession of disputed lands or crops, acted by the orders, or with the knowledge or connivance, of the actual claimants, such actual claimants shall also be proceeded against in the Criminal Court in the same manner as if they had been present.

If in the absence of the actual claimants, their agents or servants are guilty of such conduct, the same mode of procedure is to be observed.

Where the parties acted by the orders or with the knowledge of their principals, the principals are to be proceeded against as if present.

Where disputed lands and crops shall be contended for by persons armed, and death or wound ensue on either side, such lands and crops shall be forfeited to Government and both parties be liable to a criminal prosecution.

XIV. Where claimants of disputed lands or crops may go armed with swords, sticks, or other weapons, or give orders for, or connive at, other persons going so armed, to take possession of such lands or crops, and where the party in possession of such lands or crops, or other person having claim thereto, may use violent and unjustifiable means of defence beyond what is necessary to guard their own lives and persons, to prevent such claimants or armed persons from taking possession of the lands or crops, or to dispossess them by force; and where in consequence of such unjustifiable means of defence having been used, affrays ensue, and people are killed, wounded, or violently beaten, on either side, the *criminal judge* shall adjudge the lands and crops in dispute to be forfeited to Government, and both claimants and other persons concerned or assisting in the affray shall be committed to prison, or to bail (according to the circumstance of the case), to take their trial before the Criminal Court.

Disputes of the nature contemplated in this regulation may be referred to punchayets.

XV. *First.* The collector shall have authority to refer all disputes respecting arrears of rent or revenue, or respecting rates of assessment in money or kind, or of division in kind, as well as all questions of the right of occupancy or possession of lands or crops, which may be brought before him under this regulation, to a district or village punchayet for decision, provided both parties agree to that mode of settlement.

Collectors may exercise the powers vested in village and district moonsifs by Regulations V. and VII. of 1816.

Second. The collector shall have authority, in cases of disputes which may be brought before him under this regulation, to exercise the powers vested in village and district moonsifs under Regulations V. and VII. of 1816.

Appeal from the collector's decisions under this regulation lies to the *zillah* court, if preferred in thirty days.

XVI. *First.* An appeal shall be open to the *zillah* judge, by regular suit, from all decisions passed by the collector under this regulation, provided the petition of appeal shall be presented to the *zillah* judge within thirty days from the date of the collector's decision.

See Sec. vi, Act VII, 1843.

Collector's decisions not to be set aside for informality.

Second. Decisions of the collectors are not to be set aside for want of form, or for irregularity in their proceedings, but on the merits only.

Collectors, in certain cases, may put one of the litigant parties in possession of disputed lands or crops.

XVII. When suits respecting disputed lands and crops may be referred to a punchayet, the collector, on the application of either party, shall have authority to put one party immediately in possession and maintain him in it until a decision shall be given.

Section IV., Regulation XII. of 1816, extended.

XVIII. The provisions of Section IV., Regulation XII. of 1816, shall be extended to all disputes between ryot and ryot respecting the occupying, cultivating, and irrigating of lands in districts, whether permanently settled or otherwise.

Who may be employed as vakeels for parties under this regulation.

XIX. Plaintiffs and defendants shall be allowed to employ a relative, a servant, or a dependant to act in their behalf in suits which may be brought before the collectors of zillahs under this regulation.

Suits under this regulation to be free from stamp-duties.

XX. Suits instituted before the collectors under this regulation shall be exempt from all stamp-duties and fees of every description, whether decided by themselves or, under their orders, by village or district punchayets.

XXI. Proceedings before collectors under this regulation shall be summary, and summonses to parties and witnesses may be either verbal or in writing, at the discretion of the collector. It shall only be necessary for the collector to keep an abstract diary, in the language of the district, in the following form :— Form of proceedings under this regulation.

Names of Parties.	Abstract of Plaint.	Abstract of Decision.	Date of Delivery.

A.D. 1822. REGULATION VI.

A REGULATION *for extending the Powers of the Criminal Judges and of the Courts of Circuit in the Trial of Persons charged with Breaking into Houses and other Places of Habitation, or into Warehouses or other Places used for the Custody of Property, with an Intent to Steal; or charged with Theft, or with Buying or Receiving Stolen Property knowing the same to have been stolen, or charged with Escape from Jail or other Place of Confinement:* PASSED *by the Honourable the Governor in Council of Fort St. George, on the* 19*th of July,* 1822.

WHEREAS much of the time of the judges of circuit is occupied in investigating the offences of breaking into, or attempting to break into, houses, tents, or other places of habitation, or into warehouses, or other places used for the custody of property, with an intent to steal, of receiving or buying stolen goods knowing the same to be stolen, and of some other offences which, from their character, and from the circumstances attending their perpetration, do not very frequently demand severe punishment; and whereas the prosecutors and witnesses in such cases are exposed to great distress and inconvenience in being compelled to attend, not only during the inquiry into such cases before the criminal judges, but subsequently during the trial before the Court of Circuit; and whereas the prisoners themselves in such cases are sometimes subjected to a prolonged detention in custody previously to their trial at the sessions; and whereas some of the inconveniences above noticed will be obviated, and the ends of criminal justice will be more promptly and effectually obtained, by investing the criminal judges and the Courts of Circuit with certain powers Preamble.

with regard to the trial and punishment of persons charged with and convicted of such offences, the following rules have been enacted, to be in force from the date of their promulgation.

Rules for the guidance of *criminal judges* on the trial of offenders charged with breaking into houses, &c. with intent to steal.

II. *First.* The *criminal judges* shall be guided by the following rules whenever individuals may be apprehended and brought before them on a charge of having committed the offence of breaking into, or attempting to break into, a dwelling-house, tent, or other place of habitation, by night or by day, with an intent to steal (but without open violence such as to constitute the crime of robbery by open violence, as defined in Clause First, Section III., Regulation XV. of 1803), or with the offence of breaking into, or attempting to break into, any warehouse, storehouse, or other building or place used for the custody or preservation of property, either by night or by day, with an intent to steal (but without open violence), or of being present, aiding and abetting in the commission of any of the offences above specified; or, although not present, of having procured or caused the perpetration of any of those offences by hire, counsel, or command, or of having in any manner confederated with the actual perpetrators of them in pursuance of a preconcerted plan.

If such offences be attended with acts of violence and certain other circumstances of aggravation, the *criminal judge* to commit the offenders to the *Court of Circuit.*

Second. If the perpetration of any of the offences enumerated in the preceding clause (not amounting to the crime of robbery by open violence) shall be accompanied with wounding, burning, corporal injury, or other aggravating act of personal violence; or if the prisoners, or any of the prisoners, concerned in the offences described in the preceding clause, shall appear to have been before convicted of burglary, robbery, or other heinous crime; or if the prisoners, or any of them, shall appear to be persons of notoriously bad character, or shall be charged with having committed the offence while employed in the office of watchmen, guards, or police officers; or if property be stolen of which the value or amount shall exceed the sum of one hundred Madras rupees, in all such cases it shall be the duty of the *criminal judge* to commit the whole of the prisoners who may appear from the evidence adduced to have been concerned in the offence, to take their trial before the *Court of Circuit at the ensuing session.*

Punishment to be awarded by *Courts of Circuit* on such offenders when convicted.

Third. In cases of conviction before the *Court of Circuit* of individuals charged with any of the offences above specified, if the act be accompanied with an attempt to commit murder, whether by wounding, burning, strangling, drowning, throwing into a well, or by any other means, or be accompanied with wounding, burning, or corporal injury to any person or persons in such degree as to endanger life, the judge of *circuit* shall refer the trial to the Court of Foujdarry Adawlut, and the offender or offenders who may be convicted to the satisfaction of that court of having been concerned as principals or accomplices in the crime, shall be liable to [*the same punishment as is prescribed by Section III., Regulation I. of* 1822, *for robbery by open violence*]. If the judge of *circuit* be of opinion that there are grounds for a mitigation of the prescribed punishment, he shall state the same for the consideration of the Foujdarry Adawlut.

Rescinded—See Cls 1 and 2, Sec. II., Reg I., 1825.

Sentence to be passed by the *Court of Circuit* when the offences specified in Clause Second may not have been accompanied with an attempt to commit mur-

Fourth. In cases of conviction before the *Courts of Circuit* of any offences specified in Clause Second of this section, wherein the house-breaking and theft, or attempt to commit the same, may not have been accompanied with an attempt to commit murder, nor with wounding, burning, or other corporal injury, in such degree as to endanger life, but

der, or with wounding, or other corporal injury endangering life.

may have been attended with wounding, or other corporal injury in a less degree, the judge of *circuit*, provided he concur in the conviction of the offender, shall, without reference to the Foujdarry Adawlut, adjudge him to suffer such punishment as may appear adequate to the offence, not exceeding *thirty-nine stripes with the rattan*, and imprisonment for fourteen years in banishment from the district where the prisoner may have resided.

See Reg. VIII., 1828.

Superseded—See Secs. i. and ii., Reg. I., 1825.

Explanation of the preceding clauses as not *extending to robbery by open violence, nor* meant to authorize an enhancement of the existing penalties for burglary or theft when not accompanied with the specified acts of aggravation.

Fifth. Nothing in the above clause shall be construed [*to empower the Courts of Circuit to pass and order execution of a sentence of conviction and punishment, without reference to the Foujdarry Adawlut, in any case of robbery by open violence, as defined in Clause First, Section III., Regulation XV. of* 1803, *or**] to authorize an enhancement of the penalties declared by the regulations in force for burglary or theft, when not accompanied with wounding or other corporal injury, nor with an attempt to commit murder by strangling or other means, as described in Clause Third of this section.

Criminal judges empowered to take cognizance of the offence of breaking into houses, &c. if unattended with the aggravating circumstances noticed in Clause Second.

Sixth. If from the investigation held by the *criminal judge* in the cases described in Clause First of this section, there shall appear reason to believe that any prisoner apprehended and brought before him has been guilty of the offence charged against him, but that such offence has not been attended with any of the circumstances of aggravation specified in Clause Second of this section, the *criminal judge* shall, in addition to the evidence which may be adduced on the part of the prosecution, take the defence of the prisoner, and the evidence of the witnesses who may be designated by the prisoner in support of his or her defence, and after a full and deliberate investigation, shall proceed, without reference to the *Court of Circuit*, to pass sentence of acquittal or conviction; if the prisoner be convicted, the *criminal judge* is hereby empowered to sentence him to imprisonment with hard labour for a period not exceeding two years, and to corporal punishment, not exceeding *thirty stripes of the rattan.*

Punishment which the *criminal judges* may inflict.

See Reg. VIII., 1828.

† Sec. vii., Reg. X., 1816.

Rules for extending the powers of *criminal judges* in the punishment of persons convicted of theft, and defining cases cognizable respectively by *criminal judges* and *Courts of Circuit.*

III. *First.* Under the existing regulations,† the *criminal judges* are empowered to sentence prisoners, convicted before them of theft, to imprisonment for a period not exceeding six months, with corporal punishment not exceeding *thirty rattans;* and in cases demanding a more severe punishment, they are required to commit the prisoners for trial before the *Court of Circuit;* the following rules are now enacted for extending the powers of the *criminal judges* in the punishment of prisoners convicted of theft, and for defining the cases which are to be cognizable respectively by the *criminal judges* and by the *Courts of Circuit.*

See Reg. VIII., 1828.

See Sec. ix., Reg. I., 1825.

In what cases of theft offenders must be committed for trial before the *Court of Circuit.*

Second. In all cases of theft, whether in a house, warehouse, or other place, or from the person of another (not coming within the provisions of the regulations in force for the punishment of robbery by open violence, or the provisions of Clause First, Section II. of this regulation), if the theft, or the attempt to commit the same, shall have been accompanied with an attempt to commit murder, or with wounding, burning, severe corporal injury, or other aggravating act of personal violence, it shall be the duty of the *criminal judge* to commit the whole of the prisoners who may appear from the evidence adduced to have been concerned, either as principals or accomplices in the offence, to take their trial before the

* Reg. I., 1822, required a reference to the Foujdarry Adawlut of all cases of the nature here referred to—that regulation was rescinded by Reg. I., 1825.

Criminal judges may commit prisoners accused of theft for trial before the *Court of Circuit*, although not charged with using personal violence.

Court of Circuit at the ensuing session; the *criminal judge* shall also commit for trial before the *Court of Circuit*, any prisoners charged with theft (although not attended with the aggravating circumstances above mentioned), who from their notoriously bad character, or from their having been before convicted of a heinous offence, or from any other peculiar circumstances of the case, may appear to him deserving of a severer punishment than the *criminal judge* is authorized to inflict under the following clauses of this section; such persons, if convicted on trial before the *Court of Circuit*, will be liable to penalties prescribed in Clauses [*Third*] and Fourth, Section II. of this regulation, for the offences therein specified.

Penalties to which such persons are liable on conviction before the *Court of Circuit*.

See Cl. 2, Sec ii., Reg. I., 1825.

Criminal judges to try and decide in all other cases of theft.

Third. With exception to the cases mentioned in the preceding clause, the *criminal judges* shall hear and determine, without reference to the *Courts of Circuit*, all other cases of theft which may be brought before them, and after having duly considered the evidence which may be adduced on the part of the prosecution and of the prisoner, shall pass sentence of acquittal or conviction.

Punishment to which the prisoners are declared liable in cases of theft cognizable by *criminal judges* if attended with aggravating circumstances.

Fourth. In cases of theft cognizable by the *criminal judges* under the foregoing clause, if the amount or value of the property stolen shall exceed fifty *Madras* rupees; or if the persons committing the theft shall have been before convicted of theft, burglary, robbery, or other heinous offence; or if the prisoner shall have committed the offence while employed in the office of watchman, guard, or police officer; or be a servant of the person from whom the property may have been stolen, or a servant employed in the house in which the theft may have been committed; as well as in all cases of cattle-stealing, the *criminal judge* shall be empowered, on proof of the guilt of the prisoner, to sentence him to imprisonment with hard labour for such period as may appear proper, not exceeding two years, and to corporal punishment, not exceeding *thirty stripes with a rattan.*

See Sec. iii., Reg. VI., 1827

See Reg VIII., 1828.

Criminal judges to pass sentence on the prisoners in other cases of theft.

Fifth. In other cases of theft, not included in the foregoing provisions, the *criminal judges* shall pass sentence on the prisoners under the powers vested in them by Section VII., Regulation X. of 1816.

Rules for the guidance of *criminal judges* in investigating charges against receivers and buyers of stolen property.

IV. *First.* The *criminal judges* shall be guided by the following rules in the investigation of charges preferred against individuals for the offence of receiving or buying stolen goods, cattle, jewels, money, or effects of whatever description, knowing the same to have been stolen.

Purchasers or receivers of stolen property obtained under aggravating circumstances to be tried before the *Court of Circuit.*

Second. All prisoners who may appear to the *criminal judge*, from the investigation held by him, to be guilty of having purchased or received plundered or stolen property of any description, knowing, at the time of purchasing or receiving the same, that such property had been obtained in the perpetration of robbery by open violence, or of theft, accompanied with any of the aggravating circumstances described in Clause Second, Section II., or Clause Second, Section III. of this regulation, shall be committed by the *criminal judge* to take their trial before the *Court of Circuit;* and such persons, if convicted thereof, shall be sentenced by the judge of *circuit*, according to the circumstances of the case, to such period of imprisonment as may appear proper, in no instance, however, exceeding fourteen years, and to corporal punishment not exceeding *thirty-nine stripes of the rattan.*

Punishment on conviction.

See Reg. VIII., 1828.

Notorious offenders and common receivers of stolen property ob-

Third. The *criminal judge* shall also commit for trial before the *Court of Circuit* any prisoner charged with the offence of buying or receiving

stolen property of whatever description, knowing at the time that such property had been stolen, although the property may not have been obtained in the perpetration of theft accompanied by any of the aggravating circumstances described in Clause Second, Section II., and Clause Second, Section III. of this regulation, if the prisoner shall have been before convicted of the offence of buying or receiving stolen property, or of robbery, burglary, theft, or other heinous crime, or shall appear to be an habitual and professional receiver of stolen property, or a person of notoriously bad character; and such person shall, upon being duly convicted before the *Court of Circuit*, be liable to such punishment, within the limitations prescribed in the preceding clause of this section, as the *Court of Circuit* may judge proper to direct, on a consideration of all the circumstances of the case.

tained without violence shall be also tried before the *Court of Circuit*.

Fourth. With exception to the cases above mentioned, the *criminal judges* shall hear and determine, without reference to the *Courts of Circuit*, all other cases in which individuals may be charged with the offence of buying or receiving stolen property of whatever description, knowing it at the time to have been stolen; or with the offence of having in their possession property obtained by theft or robbery, and knowing, at a period of time subsequently to its first coming into their possession, that such property had been so obtained, notwithstanding which, they may have kept the stolen property in their possession without restoring it to the owner, or giving information to the local police officer or magistrate; in such cases the *criminal judge*, after having duly considered the evidence in support of the prosecution, the defence of the prisoners, and the evidence of the witnesses designated by the prisoners, shall proceed to pass sentence of conviction or acquittal; if the prisoners be convicted, the *criminal judge* is hereby empowered to sentence them to imprisonment with hard labour for a period not exceeding in any case two years, and to corporal punishment not exceeding *thirty stripes of the rattan.*

Criminal judges empowered to hear and decide all other cases in which prisoners may be charged with buying or receiving stolen property.

Criminal judges how to proceed in such cases.

See Reg. VIII., 1828.

Fifth. It is hereby explained, that persons charged with the offences specified in the preceding clauses of this section may be brought to trial and sentenced to punishment, although the actual perpetrators of the theft or robbery may not have been convicted; provided, however, that the fact of the theft or robbery having been committed be established, and it be proved that the purchaser or receiver knew that the property in question had been obtained by theft or robbery.

Receivers may be tried and punished, although the actual thief or robber may not have been convicted.

Proviso.

V. *First.* Clause First, Section IX., Regulation XV. of 1803, is hereby rescinded.

Rescission.

Second. The cases of convicts, or of prisoners ordered to be confined till they give security for good behaviour, who may effect their escape while under sentence or order of imprisonment from a jail or other place of confinement, or from the custody of their guards, shall be cognizable by the *criminal judge;* and upon conviction, the *criminal judge* shall be empowered to sentence the offenders to corporal punishment, not exceeding *thirty stripes with a rattan*, and (if sentenced to a limited period of imprisonment) to suffer such further period of imprisonment beyond the unexpired term of their original sentence, as he may judge proper; provided, however, that such additional imprisonment shall in no case exceed the period of two years. If the prisoner be in confinement under an order to

Convicts or prisoners confined for security effecting their escape to be tried by the *criminal judge*.

Punishment on conviction.

See Reg. VIII., 1828.

Proviso.

find security for good behaviour, he may be sentenced to imprisonment for a specific term, not exceeding two years.

Prisoners escaping from confinement while under examination to be tried and sentenced by the *criminal judge*.

Third. The cases of prisoners apprehended and detained in custody under examination on charges of a criminal nature, but not admitted to bail, who may effect their escape from a jail or other place of confinement, or from the custody of their guards, shall also be cognizable by the *criminal judges;* and such prisoners, being duly convicted of the offence in question, shall be liable to a sentence of imprisonment in no case exceeding six months.

The foregoing rules declared inapplicable to convicts who, in escaping from confinement, may be guilty of acts of serious personal violence.

Criminal judges how to proceed in such cases.

Fourth. The rules contained in the two preceding clauses shall not, however, be considered applicable to the cases of convicts or other prisoners, who, in effecting their escape, or in attempting to effect their escape, shall be guilty of such a degree of violence towards their guards or other individuals, as may in its consequences involve the wounding or severe personal injury of any person or persons. In all cases of that nature it shall be the duty of the *criminal judge* to commit the offender to take his trial before the *Court of Circuit.*

Criminal judges to submit separate lists to the *Courts of Circuit* of all persons sentenced by them to a longer imprisonment than six months.

VI. In addition to the calendars of persons apprehended and discharged, or punished, which the *criminal judges* are now* required to submit to the *Court of Circuit at the period of the sessions*, it shall be the duty of the *criminal judges* to furnish a separate list of all persons who may have been sentenced by them, under the provisions of this regulation, to a longer period of imprisonment than six months, shewing the names of the prisoners, the crimes with which they may have been charged, and the sentences passed upon them; and it is hereby declared that the powers vested in the *Courts of Circuit*, and in the Foujdarry Adawlut, with regard to the revision of sentences and orders passed by the *criminal judges*, shall be considered applicable to all sentences and orders passed by the *criminal judges* under this regulation.

* Sec. XXIII., Reg. X., 1816.

The Foujdarry Adawlut and *Courts of Circuit* empowered to revise all such sentences and orders passed by the *criminal judges*

A.D. 1822. REGULATION VII.

A REGULATION *for rescinding Regulation I. of* 1809, *and Regulation V. of* 1811, *and for declaring that the Appointment and Removal of the Native Public Servants of Government shall be regulated by such Orders as the Governor in Council may from Time to Time see fit to issue:* PASSED *by the Honourable the Governor in Council of Fort St. George, on the* 12*th day of July*, 1822.

Preamble.

THE rules now in force relative to the appointment and removal of native servants in the several public departments under the Government, having been found inconvenient in practice, as tending to impose unne-

cessary restraints in the removal of servants who have appeared unworthy of confidence, it has been deemed proper to rescind Regulation I. of 1809, and Regulation V. of 1811, and to leave it to the Governor in Council from time to time to issue such orders as to him may seem proper for the guidance of the heads of public offices, relative to the appointment and removal of the servants of the several departments. The following rules have therefore been enacted, to be in force from the date of their promulgation.

Rescissions.

II. Regulation I. of 1809, Regulation V. of 1811, Section II., Regulation XII. of 1802, Section III., Regulation XIII., of 1802, Section IV., Regulation III. of 1808, such part of Section III., Regulation XXIII. of 1802, as regards the appointment and dismissal of the keepers of *judicial** records, and such part of Section XXXVI., Regulation II. of 1803, as relates to the appointment and dismissal of native public servants, are hereby rescinded.

* Should be *revenue*— Reg. XXIII., 1802, relates only to revenue records.

The appointment and removal of public servants declared to be subject to such rules as the Governor in Council may from time to time issue.

III. *First.* The appointment and removal of the ministerial officers of the Courts of Judicature, and of the native public servants in the revenue, *commercial*, and other public departments under the Government, shall be subject to such rules and orders as the Governor in Council in his discretion may from time to time see fit to issue.

The appointment and removal of law officers to remain, as now, with the Sudder Adawlut.

Second. Provided, however, that the Court of Sudder Adawlut shall continue, as at present, empowered to confirm the appointment, removal, and resignation of the law officers of the [*Provincial and*] Zillah Courts.

See Sec. ii., Act XXVII., 1836, and Sec. ii., Act VII., 1843.

A.D. 1822. REGULATION VIII.

A Regulation *to rescind Regulations III. of* 1809, *II. of* 1810, *and VI. of* 1818, *and to make Provision for the Investigation of the Conduct of the Public Officers of Government, European or Native, when necessary, in the Way which in each particular Case may be deemed most convenient:* Passed *by the Honourable the Governor in Council of Fort St. George, on the 6th December,* 1822.

[Rescinded by Section I., Act XIII., 1843.]

A.D. 1822. REGULATION IX.

A REGULATION* *for empowering Collectors to take primary Cognizance of Cases of Malversation in Revenue Affairs; for prescribing the Rules to be observed in such Investigations, and in the Recovery of Money embezzled or corruptly received by Public Servants and others amenable to the Collectors' Jurisdiction; for providing for the Admission and Trial of Appeals from the summary Decisions of Collectors in such Cases; for declaring the Powers of Criminal Judges and Courts of Circuit in the Punishment of the Offences specified in this Regulation, and for rescinding Regulation XXXIII. of* 1802: PASSED *by the Honourable the Governor in Council of Fort St. George, on the* 20*th December*, 1822.

Preamble.

WHEREAS it is necessary to the security of the revenues of Government, and to the welfare of the people, that collectors should be empowered to make summary inquiry and decision, in cases in which it may come to their knowledge, that the public servants under their superintendence, or the officers of the village establishments, or any other persons in their behalf, or on any assumed or pretended authority, have embezzled the public money, or made unauthorized collections, or received bribes, or extorted money or other valuable consideration, and that collectors should have power to enforce the judgments they may pass in such cases; and whereas the trial of appeals from such judgments cannot always be made with the necessary expedition, nor without public inconvenience by the regular courts, and it is therefore expedient to provide that in certain cases commissioners may be appointed to try such appeals; and whereas it is necessary to declare the powers to be exercised by criminal judges and Courts of Circuit in the punishment of the offences of bribery and corruption, and the other offences specified in this regulation; and whereas the provisions of Regulation XXXIII. of 1802 have been found inefficient for the purpose for which they were intended, and it is therefore deemed proper to rescind that regulation, the Honourable the Governor in Council has therefore enacted the following rules, to be in force from the date of their promulgation.

Collectors authorized to take primary cognizance of cases of malversation in revenue affairs.

II. *First.* Collectors of the land revenue are hereby authorized to take primary cognizance of all cases in which persons of any of the several descriptions hereinafter specified shall be accused or suspected of having

* The powers of Collectors are declared by Sec. iii., Reg. VII., 1828, to be vested, *ex officio*, in Subordinate and Assistant Collectors in charge of divisions, but subject to the supervision of the Collector. Collectors are also empowered by the same section to delegate any of their powers to any of their subordinates or assistants not in charge of divisions, or beyond the limits of their assigned divisions. By Sec. iv. of the same regulation, Collectors are empowered to refer cases of a petty nature cognizable by themselves under this regulation to their principal native officers.

All provisions of this regulation and of Regulation VII., 1828, which relate to the cognizance of the offences of the 3rd and 5th classes specified in Sec. ii. of this regulation, are declared by Sec. ii., Act XXXVI., 1837, to extend to offences of the like description in respect of any other public property and paper relating thereto.

wilfully committed, or allowed to be committed, any of the acts of malversation particularized in Clause Second of this section; and, on proof of the guilt of the accused or suspected persons, to inflict on them such punishments as by this regulation the said collectors are authorized to adjudge.

Second. The several classes of the offences cognizable by collectors under this regulation are declared to be as follows, viz.:

Specification of the offences cognizable under this regulation

1st. Exacting or corruptly receiving, either directly, or through the means or agency of any other person, any money, or other valuable consideration, for doing, or procuring to be done, any public or official act for which no such payment or gift could be lawfully demanded or received, or for the purpose, or under pretence, of obtaining or securing some undue gain, benefit, or advantage to the giver of such money or other valuable consideration.

Exacting or corruptly receiving money, &c for the performance of official acts

2nd. Levying extra and unauthorized cesses or extra collections of any kind, not sanctioned by the regulations nor by the orders of Government, and intended for the private and personal use and profit of the persons levying or causing the same to be levied.

Levying extra collections

3rd. Embezzling or fraudulently misappropriating the public money.*

Embezzling public money

4th. Making false or fraudulent entries in the public accounts or other records, either in regard to the receipt or expenditure of public money in any of the departments under the collector's superintendence, or concerning the extent, value, classification, or assessment of land.

Making false entries in the public accounts

5th. Knowingly and wilfully falsifying, destroying, or concealing public accounts, or vouchers or documents of any kind immediately relating to the receipt or expenditure of the public money.*

Falsifying, destroying, or concealing public accounts.

Third. The classes or descriptions of persons in regard to whom the collectors shall have authority to exercise the powers of summary investigation, decision, and punishment, granted to them by this regulation, are declared to be as follows, viz.:

Descriptions of persons subject to the collector's authority under this regulation

1st. All the native servants of the collectors' public establishments.

2nd. All head inhabitants, kurnums and their gomastahs, or persons doing the duty for them, and all other village officers and servants within their respective collectorates.

3rd. All persons not on the public establishment, whether being in the private service of a collector, sub-collector, or assistant to a collector, and pretending to act under his or their authority, or whether assuming the character of public officers, or acting or pretending to act under the authority or on the behalf of revenue servants or village officers, who shall in any way interfere in the collection or disbursement of the public money, or who shall demand or receive money as public revenue, or as for revenue purposes, or shall exact or receive money or other valuable consideration under pretence of procuring some public act to be done, or some undue advantage to be given by public officers to the persons from whom such money or other valuable consideration shall have been taken.

III. *First.* Collectors shall have power to summon before them as witnesses all persons whose evidence may appear necessary to the due investigation of the cases referred to in this regulation, as well for as against the accused or suspected persons, and to require the production of

Collectors empowered to summon witnesses and to require the production of documentary evidence.

* Extended to other public property by Sec. i., Act XXXVI., 1837.

documentary evidence. The summonses to be issued by collectors for this purpose shall bear their official seal and signature, and shall specify the time and place of the witnesses' attendance; and if reference to documentary evidence be required, the summonses shall contain a requisition to the witnesses in whose possession they may be, to bring such documents along with them.

Collectors how to proceed if witnesses shall not attend, or refuse to give evidence.

Second. If any person, after being duly summoned, shall not attend at the time and place appointed, or having attended and taken the *oath* required, shall refuse to give evidence, the collector, if it be proved to his satisfaction that the evidence of the person not attending or refusing to give evidence is material to the case, shall communicate the same, by means of the Government pleader, to the *judge of the zillah* to the jurisdiction of which such person may be amenable, and the judge is hereby directed and required to proceed against such person not attending or refusing to give evidence in the same manner as if he had not attended, or had refused to give evidence in the *Zillah* Court.

Witnesses residing in other zillahs to be examined by the judge of the zillah in which they reside.

Third. If any witness whose evidence is required by a collector shall reside out of the jurisdiction of the zillah to which the collector is amenable, the collector shall transmit written interrogatories to the *judge of the zillah* in whose jurisdiction the witness may reside, who shall procure the written answers of the witness to such interrogatories, in the manner prescribed in [*Section VII., Regulation III. of* 1802,] and shall return the same to the collector. Whenever a witness may be examined on interrogatories in conformity with the foregoing rule, whether on behalf of the Government or of the accused, the opposite party shall have the right of transmitting cross interrogatories at the same time, and the answers of the witness thereto shall be taken and returned in like manner.

Substitute Act VII., 1841.

Cross interrogatories may at the same time be put.

Investigations under this regulation to be summary.

IV. The investigations which collectors are authorized to make under this regulation shall be summary. Witnesses shall be examined on [*oath, in the mode most binding on their consciences, or if persons of rank or caste that exempts them from taking an ordinary oath, then on*] a solemn declaration in the form prescribed by the regulations in such cases. All documents produced in evidence shall be endorsed by the collector with his signature or initials, and marked with the date of their production. A summary of the defence shall be recorded, and the decision of the collector, with a brief statement of the grounds on which it is formed, shall be entered on the proceedings.

See Act V., 1840.

Rules of procedure.

See Cl. 2, Sec. ii., Reg III., 1823.

Sentence which collectors may pass on persons convicted of the offences of the 1st, 2nd, or 3rd class specified in Clause Second, Section II. of this regulation.

V. *First.* When persons of any of the descriptions mentioned in Clause Third, Section II. of this regulation, shall be convicted before a collector, on an inquiry conducted under this regulation, of any of the offences of the 1st, 2nd, or 3rd class specified in Clause Second of that section, the collector shall have authority to sentence them to pay any sum not exceeding twice the amount of the money ascertained to have been extorted, unduly received, embezzled, or misappropriated.

Convicted persons to be kept in custody until the judgment has been satisfied.

Second. After a judgment has been passed by a collector for the payment of money under the foregoing clause, the person against whom such judgment has passed shall be kept in custody until that judgment shall have been satisfied, first, in the collector's cutcherry, and afterwards, if necessary, in the zillah jail as hereinafter provided.

Third. The judgments of collectors for the recovery of money under the preceding clause, shall be executed in the same manner as decrees of the Courts of Adawlut, by a warrant under the official seal and signature of the collector, which shall specify the name of the person against whom the judgment has passed, the date of the judgment on the collector's proceedings, and the amount to be levied. In the execution of this warrant, the property of the defaulter shall be seized wherever, or in whose possession soever, it may be found. If property, which there is good reason to believe belongs to the defaulter, be claimed by any other person, the same shall nevertheless be attached by the officer charged with the execution of the warrant. If the property so attached be moveable, it shall be brought before the collector, or if not moveable, a full report thereof shall be made to the collector, who will hold a summary inquiry on the claim preferred, or refer such inquiry to a punchayet. If the property be proved to belong *bonâ fide* to the defaulter, a particular account of its nature and value shall be entered on the collector's proceedings; after which, he shall order it to be sold in like manner as the rest of the property attached under the warrant of execution.

The judgments of collectors, how to be executed.

Fourth. When any of the before-mentioned persons shall be convicted of any of the offences of the 4th or 5th class specified in Clause Second, Section II. of this regulation, the collector shall impose such fine, not exceeding 500 *Arcot* rupees, as may appear reasonable, and in default of payment of such fine he shall further sentence the offender to imprisonment for a period not exceeding twelve months, or until the said fine shall have been paid.

Persons convicted of the offences of the 4th or 5th class specified in Clause Second, Section II. of this regulation, how punishable.

See Sec. vi., Reg.VII.,1828.

VI. In cases where no examination of witnesses may be necessary, as where money actually delivered in charge to a public servant has been embezzled, or is not forthcoming when called for, and the amount embezzled has been clearly ascertained by reference to the public accounts of the cutcherry, collectors shall make in writing a demand of the specific amount due by such public servant, and on refusing or neglecting to satisfy the demand, shall proceed to recover the amount by distraint and sale of the defaulter's property, and, if necessary, by imprisonment of the defaulter's person, in the same manner as for the recovery of arrears of revenue.

In what cases collectors shall make demand in writing of a specific amount, as due by a public servant, and further procedure in such cases.

See Sec. vi., Reg.VII.,1828.

VII. Whenever a collector shall be about to institute an inquiry under this regulation, if he shall have good reason to believe that the accused or suspected person has concealed or collusively transferred, or is about to conceal, or collusively transfer, his property, for the purpose of evading such order or judgment as may eventually be passed after such inquiry, the collector is hereby authorized to call on such person to give security to such amount as he may consider sufficient to provide for the fulfilment of the judgment that may be eventually passed; and in default of good and sufficient security being given as required, he shall be authorized to attach the property of the accused or suspected person, and to hold the same in attachment until judgment shall have been passed in the said inquiry. The warrant of attachment to be issued in such cases shall follow the property of the accused or suspected person, wherever or in whose possession soever it may be found. In the event of property seized under

In what cases collectors may call on suspected or accused persons to give security for the fulfilment of the judgment that may be eventually passed.

And if such security be not given, collector how to proceed.

this section being claimed by any other person, the collector shall proceed as directed in like cases in Clause Third, Section V. of this regulation.

In what cases a collector may issue proclamation requiring property of defaulters to be surrendered to him.

VIII. In all cases where an accused or suspected person has refused or neglected to deposit security, according to the collector's requisition, as provided in Section VII., and in all cases where a judgment has passed under the provisions of Clause First, Section V. of this regulation, as well as where a defaulter has failed to satisfy the public demand against him, made under the provisions of Section VI. of this regulation, it shall be competent to a collector to issue a proclamation, requiring all persons holding property belonging to the defaulter to surrender the same to him within a specified period, not being less than fifteen days; after the publication of such proclamation, and after the expiration of such specified period, any person who may be convicted before the *criminal judge* (who is hereby empowered to take cognizance of such cases) of having fraudulently concealed or collusively received such property, shall be sentenced by him to pay a fine not exceeding three times the amount of the value of the property so fraudulently concealed or collusively received by such person, and to be imprisoned until such fine be paid. The *criminal judge* shall levy the amount of the fine by the usual process, and in the event of the full amount of the fine not being realized, shall commit the offender to confinement in the zillah jail; provided, however, that the period of confinement under this section shall in no case exceed twelve calendar months.

Persons convicted before the *criminal judge* of concealing such property, how to be punished.

In what cases collectors may issue search-warrants for the discovery of papers or accounts.

IX. If information on *oath* shall be given before a collector, that revenue papers or accounts, or papers and accounts respecting frauds or embezzlements in the public revenue, have been fraudulently concealed and deposited in any particular premises, he shall be competent to issue warrants under his own official seal and signature, addressed to one or more public officers of his establishment, commanding search to be made on the premises for the discovery of such papers or accounts. Search-warrants thus issued shall be executed between sunrise and sunset only, and, where practicable, in the presence of two or more respectable inhabitants of the village in which the house or place authorized to be searched may be situated; a full and perfect list of all papers and other things whatsoever seized in virtue of such warrants, shall be made out in duplicates on the spot, both copies shall be signed by the officer executing the warrant, and by the inhabitants or witnesses present; one copy of such list shall be given to the occupier of the house, or some person on his behalf, and the other shall be annexed to the warrant when returned to the collector. Provided, however, that nothing contained in these rules shall be construed to authorize any but females to enter the Zenana, or apartments of the women, in houses belonging to those classes whose women do not ordinarily appear in public.

Search-warrants, how to be executed.

Property, how to be sold in satisfaction of orders and judgments of collectors under this regulation.

X. Whenever it may be necessary to sell property in satisfaction of an order or judgment of the collector under the provisions of this regulation, the sale shall be conducted by the tahsildar, or other public servant to whom the collector may delegate that duty, and the rules of Sections XXI., XXII., XXV., XXVI., and XXVII. of Regulation XXVIII. of 1802,

as far as they relate to the notification, publicity, and fairness of such sales, shall be adhered to by the officer conducting the sale, who, if he shall neglect to observe those rules as far as they apply, and shall knowingly permit any unfair dealing, either in the appraisement or sale of such property, shall be liable to be fined by the collector, in such amount as may suffice to make good the loss sustained in consequence of the unfair practices which he may have so permitted, and in default of payment of such fine shall be committed to the zillah jail by the collector for a period not exceeding one year, or until such fine shall have been paid.

XI. [Judgment of a collector under Section IV. not to be executed till sanctioned by Board of Revenue.]—*Rescinded by Section II., Regulation III.*, 1823.

Collectors may pay to persons from whom money has been unjustly received the whole or part of sums recovered.

Persons who shall report exaction of money within two months to be repaid in all cases.

XII. A discretionary authority shall be vested in collectors, subject to the approval and sanction of the Board of Revenue, to pay to persons from whom money has been exacted or unjustly received, the whole or such part of the sum recovered under the provisions of this regulation as may appear proper on consideration of the circumstances of the case; provided, moreover, that such persons shall be entitled in all cases to receive back whatever they may have so given to a public servant of Government, if they shall inform the collector, subordinate collector, or assistant, of such exaction or undue receipt of money, within two months after its payment or delivery by the said informants.

Persons against whom an inquiry is going on under this regulation may be kept under restraint.

XIII. *First.* Collectors are authorized to keep under restraint any persons against whom they may have instituted an inquiry under the provisions of this regulation, either by placing peons over the dwelling-house of any such persons, to prevent their escape, or, if necessary, by confinement in the cutcherry; and if judgment be given against such persons, then to continue the restraint until the amount adjudged has been paid by them, or the amount realized by sale of the property attached in satisfaction of the order or judgment.

In what cases defaulters or culpable persons may be committed to the zillah jail.

Second. In the event of no property of a person against whom an order or judgment has been passed under this regulation being forthcoming, or not sufficient to pay the amount due by him, the collector shall forward the defaulter or offender to the *Zillah* Court, and shall at the same time furnish the Government vakeel of the said court with instructions to present a motion to the judge for his confinement, until the amount due, which shall be distinctly stated in the said motion, shall have been discharged, or until the collector shall again move the court for his release. The *Zillah* judge shall receive such motion whether in or out of court, and shall order the confinement of the party accordingly, and the judge shall not discharge him from confinement, except on his paying the full amount mentioned in the collector's motion, or on application from the collector.

XIV. [Appeals to Governor in Council against collector's decisions.]—*Rescinded by Section V., Regulation VII.*, 1828. *See Section VI. of that Regulation.*

XV. *First.* [In what cases Governor in Council will appoint a com-

mission to revise collector's proceedings.]—*Rescinded by Section V., Regulation VII.*, 1828. *See Clause Third, Section VI. of that Regulation.*

Powers of commission appointed under this regulation.

Second. A commission appointed under *this regulation* shall be vested generally with the same powers as *Zillah* Courts under the regulations in force, so far as such powers are necessary to the full and efficient discharge of the duties to be executed. The proceedings of the commission are to be governed by the rules and maxims of justice, and in all points not expressly provided for in this regulation, the provisions contained in the general regulations are to be observed as far as they may be consistent and applicable.

Commission, how to proceed.

Third. The commission shall call for and examine the proceedings and evidence recorded by the collector on the summary inquiry which preceded, and on a full consideration of the whole of the evidence, shall decide whether the judgment or order passed by the collector, and appealed from, was just and equitable, or if otherwise, in what particulars it was erroneous; and shall order the repayment, with reasonable interest, of any sum which had been adjudged by the collector to be due and payable, but which the commission shall find not to have been so due, and shall order the repayment of such sum, with reasonable interest; and if any property had been sold in satisfaction of such order or judgment of the collector, the commission, in revising the order or judgment, shall determine the amount of compensation to be paid on account of such property so sold; and shall further have authority to adjudge such reasonable costs and charges as may appear sufficient to compensate the complainant for any loss or injury sustained, or for unjust detention of the complainant, or for actual charges or expenses incurred.

How judgment to be given.

Commission to forward their proceedings to the Governor in Council.

Fourth. When the proceedings shall have been closed, or as soon afterwards as circumstances will admit, the commission shall forward the whole of the proceedings and evidence, with the final judgment on the case, to the Governor in Council.

The decisions of commissions final.

Governor in Council to determine how compensations when awarded shall be paid.

Fifth. The decisions of commissions under this regulation shall be final. But it shall rest with the Governor in Council to determine, in the case of compensation being awarded under the foregoing clause, whether the amount shall be paid from the public treasury, or whether (as in cases where the proceedings of the collector on the primary inquiry shall appear to have been unfair and unjustifiable, or where he may appear to have been culpably negligent in regard to the mode of disposing of the complainant's property) the whole or any part of such compensation shall be made good by the collector who conducted the primary inquiry, and the proceedings in execution of the summary judgment.

In what cases property attached shall be held in attachment pending the appeal. If the party appealing give good security, he shall be released from confinement pending the investigation in appeal.

Sixth. If the petition of appeal from a summary judgment of a collector passed under this regulation be presented before the property which may have been attached has been sold, such property, or any part that may still be unsold, shall be held in attachment pending the appeal; and where the property attached may be sufficient for the security of the amount adjudged by the collector on the primary inquiry, or where the party appealing may give good and sufficient security for the ultimate fulfilment of the collector's judgment, he shall be released from confinement pending the investigation by the commission.

Decree of the commission, how to be executed.

Seventh. If the decree of the commission confirm the judgment of the collector, the decree shall be executed in like manner as the decree of a

Court of Adawlut; and if the amount finally adjudged be not paid, the appellant and his sureties, where he may have given the security of others, shall be committed to the zillah jail by an order of the commissioner or commissioners bearing his or their signature, and specifying the amount to be levied; and such order shall be a sufficient warrant to the *zillah* judge to receive such persons into the zillah jail, and to keep them there until the amount decreed against them be fully paid, or until the collector, under the orders of the Board of Revenue or of Government, apply for their release.

See Secs. xlviii. and xlix., Act VII., 1843.

XVI. No suit grounded on the summary proceedings of a collector under this regulation, either in the form of an original complaint against such collector, on account of any supposed injustice in conducting such proceedings, or of an appeal from his judgment, shall be received by any Court of Adawlut, unless the plaint or petition is accompanied by the order referred to in *Clause Second, Section XIV. of this Regulation,** remitting the party complaining to seek his redress in the Courts of Adawlut.

Suits grounded on proceedings of a collector under this regulation not to be received by Courts of Adawlut unless the party complaining have been referred there by endorsement from the Governor in Council.

XVII. *First. Criminal judges* are hereby authorized to take cognizance of such cases as collectors may bring before them, where any of the persons mentioned in Clause Third of Section II. of this regulation may be accused of having committed any of the offences enumerated in Clause Second of the same section; and on conviction, to sentence such persons to imprisonment, in no case exceeding one year.

Criminal judges may punish persons for the offences enumerated in Clauses Second, Third, Fourth, Fifth, and Sixth of Section II. of this regulation.

Second. Criminal judges are likewise authorized to take cognizance of all cases where any person shall be charged with having given a bribe to any public officer or servant on the collector's establishment, or any head inhabitant, or other village officer; and on conviction to sentence such person to pay a fine not exceeding twice the amount of the bribe proved to have been paid, and in default of payment, to suffer imprisonment for a period not exceeding one year, or until the fine be paid.

Criminal judges may punish persons for giving bribes to any public revenue officer or servant.

XVIII. *First.* In cases of an aggravated nature brought before a *criminal judge* under the foregoing section, if he shall be of opinion that the sentence which he is authorized to inflict is not adequate to the punishment of the offence, he shall commit the parties to take their trial before the *Court of Circuit.*

In cases of an aggravated nature, *criminal judges* shall commit the parties for trial before the *Court of Circuit.*

Second. The *Court of Circuit* are hereby authorized, on the conviction of any persons brought before them of any of the offences enumerated in Clause Second of Section II. of this regulation, to sentence the offenders to imprisonment for a period not less than one year, nor exceeding five years, and with or without hard labour, as in consideration of all the circumstances of the case may seem proper.

Courts of Circuit authorized to punish for the offences enumerated in Clauses Second, Third, Fourth, Fifth, and Sixth of Section II. of this regulation.

XIX. Regulation XXXIII. of 1802 is hereby rescinded.

* Substitute Sec. vi., Reg. VII., 1828, and see Sec. ii., Reg. III., 1832.

A.D. 1823. REGULATION I.

A REGULATION *prescribing the Course of Proceeding to be observed in regard to Suits instituted in the Courts of Adawlut against the Public Officers of Government:* PASSED *by the Honourable the Governor in Council of Fort St. George, on the 3rd January,* 1823.

See Act XIII., 1843, respecting charges of corruption or malversation.

Preamble

WHEREAS the rules which were prescribed in Sections II. and III. of Regulation III. of 1809 (now rescinded),* relative to the transmission to the Governor in Council of all petitions of complaint filed in the Courts of Adawlut against the public officers of Government for acts done in their official capacity, previously to the officer complained against being called upon for his answer, were found to be productive of much inconvenience and delay, and it is deemed expedient that a course of proceeding should be prescribed for future observance that may be free from the same objections,—the Honourable the Governor in Council has been pleased to enact the following rules, to be in force from the date of their promulgation.

Plaints against public officers to be received and filed as other plaints.

II. *First.* Whenever a petition of complaint may be preferred to any Court of Civil Judicature against a collector or other public officer amenable thereto, for acts connected with his official duties, the judge or judges of such court shall receive and file the petition of complaint in the same manner as all other such petitions are received and filed, and shall issue the usual summons thereon.

Public officers against whom suits have been instituted may apply for reasonable time to refer to their official superiors before answering the plaint.

Second. If the public officer, on receiving the summons, shall consider the case to be of such a nature as that he may either recommend to the Governor in Council to grant the redress sought by the petition, or request permission to defend the suit at the public expense, he shall immediately instruct the Government vakeel to appear for him, and to move the court to grant him such specific time to put in his answer to the petition as may be necessary to enable him to make the requisite reference to the Board of Revenue, [*Board of Trade,*] or other official superior at the Presidency, and to receive orders thereon.

Courts authorized to grant such time, and to enlarge it on application.

III. The judges of the several courts are hereby authorized and directed to grant such reasonable time, for the purposes specified in the foregoing section, to public officers against whom petitions of complaint may have been filed in their respective courts, and, when necessary, to extend the period so granted, on application being made to them by motion in the usual way.

In what cases such suits may be struck off the file.

IV. *First.* In the event of the redress sought for by the plaint being granted, under orders from the superior authority, in consequence of a reference made under Clause Second, Section II. of this regulation, the court in which the suit may have been filed shall certify the amount of

* Reg. III., 1809, was rescinded by Reg. VIII., 1822, and was again rescinded, together with the latter regulation, by Sec. i., Act XIII., 1843.

costs incurred by the plaintiff in the institution of his suit, and shall dismiss the cause from the file on payment being made of such costs, or on the plaintiff's filing a razeenamah in the usual form.

Second. Provided, however, that the plaintiff shall not be entitled to receive the costs referred to in the foregoing clause if he shall fail to prove to the satisfaction of the court, on being called upon so to do, that before instituting the suit he applied to the public officer for the redress which by his plaint he has sought to obtain and that his application was rejected.

The costs incurred in the institution of the suit not to be paid to plaintiff unless he shews that he has before duly applied for redress and been refused.

A.D. 1823. REGULATION II.

A REGULATION *for authorizing a Special Appeal from the Decrees of Registers and Sudder Ameens, and for modifying the Provisions of Section XIV., Regulation VIII. of* 1816: PASSED *by the Honourable the Governor in Council of Fort St. George, on the 3rd of June,* 1823.

WHEREAS the regulations now in force make no provision for the admission of a second or special appeal from the decrees which registers and sudder ameens may pass in cases of appeal referred to them by the judges of the Zillah Court, and it is found necessary for the ends of justice that such special appeals should be admissible; and whereas the rule contained in Section XIV., Regulation VIII. of 1816, relative to the issue of process in causes depending before sudder ameens is inapplicable to the cases of those sudder ameens who are the law officers of Provincial Courts stationed at places where no Zillah Court is established, and it is necessary to provide for the due execution of process in such cases,—the Honourable the Governor in Council has been pleased to enact the following regulation, to be in force from the date of its promulgation.

Preamble.

II. [Special appeals admissible by zillah judge from decrees of registers and sudder ameens.]—*Superseded by Act III.*, 1843.

III. *First.* [Cases in which sudder ameens may issue their own process.]—*Superseded by Section XXV., Act VII.*, 1843.

Second. The process which sudder ameens of *Provincial* Courts are authorized [*by this regulation*] to issue under their own seal and signature shall be served by the parties applying for the same, or their vakeel, or any other person whom they may choose to employ for that purpose; provided, however, that the name of the person intended to be employed in this duty be in all cases endorsed on the process by the sudder ameens previously to its being delivered to the party or his vakeel for execution.

How such process shall be served.

Third. The person by whom process may be served shall require from the person on whom it is served a written acknowledgment, to be endorsed on the process, signifying that it has been duly served upon him, and shall require some of the neighbours or other inhabitants to witness the due service of the process.

Such process to be endorsed with a written acknowledgment of service by the person on whom it is served.

A.D. 1823. REGULATION III.

A REGULATION *for rescinding Section XI., Regulation IX. of* 1822, *and for declaring the Powers of Subordinate and Assistant Collectors, in the Execution of the Provisions of Regulation IX. of* 1822: PASSED *by the Honourable the Governor in Council of Fort St. George, on the 8th August,* 1823.

Preamble

WHEREAS the reference to the Board of Revenue required by Section XI., Regulation IX. of 1822, to be made by collectors before any judgment passed by them under Section IV. of that regulation can be carried into execution, has been found inconvenient in practice and otherwise objectionable, and it is expedient that the said rule be rescinded, and that the Board of Revenue be vested with general power to suspend the execution of any judgment so passed which to them may seem improper,—the Honourable the Governor in Council has been pleased to enact the following rules, to be in force from the date of their promulgation.

Rescission

Collectors to transmit reports of judgment passed by them under Regulation IX of 1822, which the Board of Revenue may, at their discretion, suspend

II. *First.* Section XI., Regulation IX. of 1822, is hereby rescinded.

Second. Collectors will transmit such periodical or occasional reports of judgments passed under Section IV. of the above-quoted regulation as the Board of Revenue may direct. And it shall be competent to the Board of Revenue, whenever they may see fit, to order that such judgment be not carried into execution, and to pass such further order on the case as to them may seem equitable and just.

III. [Powers of subordinate and assistant collectors under Regulation IX, 1822.]—*Rescinded by Section II., Regulation VII.,* 1828.

A.D. 1824. REGULATION I.

A REGULATION *for extending to the Criminal Courts the Rules prescribed in Section VII., Regulation III.,* 1802, *for procuring the Attendance and Evidence of Witnesses:* PASSED *by the Honourable the Governor in Council of Fort St. George, on the 26th November,* 1824.

Preamble

WHEREAS the rules contained in Section VII., Regulation III., 1802, for procuring the attendance and evidence of witnesses in the Civil Courts, have not been included in any regulation for the Criminal Courts, and it is necessary that the provisions for compelling the attendance and evidence of witnesses in civil cases should be made equally applicable to witnesses in criminal cases, the Honourable the Governor in Council has enacted the following regulation, to be in force from the date of its promulgation.

II. Such parts of Section VII., Regulation III., 1802, as prescribed to the Civil Courts the rules for procuring the attendance and evidence of witnesses, and for *administering oaths, or* taking declarations equivalent to, and in lieu of such oaths; and likewise for inflicting punishments on persons, who being duly summoned, refuse to attend, or when attending refuse to give evidence,—are hereby extended to the cases of witnesses whose attendance and evidence may be required by any zillah magistrate or *criminal judge*, or the *Courts of Circuit*, in any criminal trials or matters cognizable by them respectively.

The rules of Section VII., Regulation III., 1802, for obtaining the attendance and evidence of witnesses, extended to the cases of witnesses required by magistrates, *criminal judges*, and *Courts of Circuit*.

A.D. 1825. REGULATION I.

A REGULATION *to rescind Regulation I. of* 1822, *and to alter certain other Provisions of the Regulations in force, and to provide for the more prompt and effectual Administration of Criminal Justice, in certain Cases:* PASSED *by the Honourable the Governor in Council of Fort St. George, on the 29th of March*, 1825.

WHEREAS the reference to the Court of Foujdarry Adawlut of all cases of conviction of robbery by open violence, which is prescribed by Regulation I. of 1822, has been found greatly to increase the labours of the Courts of Circuit, without any commensurate benefit; and it is considered, that the object of that regulation may be effectually attained by requiring that a report shall be made to the Court of Foujdarry Adawlut by the judge of circuit, in all cases in which the penalties adjudicable by the Court of Circuit under the provisions of Clause Third, Section IV., Regulation XV. of 1803, may appear too severe, authority being given to the Court of Foujdarry Adawlut to sanction a mitigation of punishment, upon such report; and whereas it is considered proper that authority should be given to the Court of Foujdarry Adawlut to mitigate the punishment in the cases described in Clause First, Section XIX., Regulation VIII. of 1802, and, on a report from the judge of circuit, to sanction a mitigation of the penalties prescribed in Section XXI., Regulation VII. of 1802, and in the Clause First, Section III., Regulation VI. of 1811, without a reference of the trial; and whereas the rule contained in Section XXV., Regulation VII. of 1802, has been found unnecessarily to augment the number of references to the Court of Foujdarry Adawlut; and whereas it is considered expedient, in modification of the provisions of Section XXII., Regulation VII. of 1802, to authorize the judges of circuit to overrule, under certain restrictions, objections taken by the Mahomedan law officer to the evidence of witnesses on criminal trials; and whereas it is deemed advisable to declare, in amendment of Section III., Regulation VI. of 1822, that in certain cases of theft, the criminal judges shall commit the accused for trial before the Court of Circuit, solely with

Preamble.

reference to the amount of the property stolen,—the following rules have been enacted, to be in force from the date of their promulgation.

Regulation I. of 1822 rescinded.

II. *First.* Regulation I. of 1822 is hereby rescinded.

Offenders declared in Clause Third, Section II., and Clause Second, Section III., Regulation VI. of 1822, liable to the punishment prescribed by Section III., Regulation I. of 1822, to be sentenced to *thirty-nine stripes* and transportation for life.

Second. All offenders, who by the provisions of Clause Third, Section II., and Clause Second, Section III., Regulation VI. of 1822, are declared liable to the punishment prescribed by Section III., Regulation I. of 1822, shall, on conviction, be sentenced to corporal punishment, not exceeding *thirty-nine stripes with a rattan*, and to imprisonment and transportation for life.

See Reg. VIII., 1828, and Act XIV., 1844.

The Court of Foujdarry Adawlut empowered to adjudge all persons sentenced to transportation for life to receive *thirty-nine stripes.*

Third. The Court of Foujdarry Adawlut shall have authority, at their discretion, to adjudge all persons sentenced by them to imprisonment and transportation for life, to corporal punishment of *thirty-nine stripes with a rattan.*

See Reg. VIII., 1828, and Act XIV., 1844.

Similar authority given to the *Courts of Circuit* in cases of imprisonment, under Clause Third, Section IV., Regulation XV. of 1803.

Fourth. The *Courts of Circuit* shall have authority, at their discretion, to adjudge all persons sentenced by them to imprisonment under the provisions of Clause Third, Section IV., Regulation XV. of 1803, to receive corporal punishment, not exceeding *thirty-nine stripes with a rattan.*

See Reg. VIII., 1828.

Such part of Clause Fifth, Section IV., Regulation XV. of 1803, as respects the *Courts of Circuit* rescinded.

III. *First.* Such part of Clause Fifth, Section IV., Regulation XV. of 1803, as respects the *Courts of Circuit*, is hereby rescinded.

In cases of conviction under Clause Third, Section IV., Regulation XV., 1803, if the judge of *circuit* consider the stated punishment too severe, he shall make a report to the Court of Foujdarry Adawlut.

Second. If it shall appear to the judge of *circuit*, on any trial held under the provisions of Clause Third, Section IV., Regulation XV. of 1803, and not referrible to the Foujdarry Adawlut, that the stated punishment is, in any particular instance, too severe; or if on consideration of the number of prisoners convicted of the same crime, and of any discriminative circumstances with respect to one or more of them, the example shall appear sufficient for the ends of justice without extending the full degree of the prescribed punishment to the whole of the prisoners convicted, the judge of *circuit* shall submit a report of the circumstances of the case, and of the sentence proposed by him to be passed on each convicted prisoner, to the Court of Foujdarry Adawlut, accompanied by a statement of the grounds of his opinion that such mitigation of punishment is proper.

Court of Foujdarry Adawlut empowered to sanction mitigation of punishment on report from the judge of *circuit.*

Third. The Court of Foujdarry Adawlut shall have authority, on receiving the report prescribed in Clause Second of this section, to sanction such mitigation of punishment as may appear to them proper; but, should they not not see sufficient grounds for mitigating the prescribed penalty, they are hereby empowered to direct the judge of *circuit* to issue his warrant for carrying into effect the sentence prescribed by law.

The provisions of Clauses Second and Third, Section III. of this regulation, made applicable to the cases provided for in Section XXI., Regulation VII. of 1802.

IV. *Courts of Circuit* and Foujdarry Adawlut are hereby authorized to proceed in the mode prescribed in Clauses Second and Third, Section III. of this regulation, in all cases wherein a futwa awarding amputation may be given by the law officer of the *Court of Circuit;* and the sentence prescribed in Section XXI., Regulation VII. of 1802, may be considered by the judge of *circuit*, holding the trial, to be too severe. *

The provisions of

V. In modification of the provisions of Section III., Regulation VI. of

* This rescission revives Clause Third, Section iv., Regulation XV., 1803.

1811, authority is hereby given to the Courts of *Circuit* and Foujdarry Adawlut to proceed in the mode prescribed in Clauses Second and Third, Section III. of this regulation, in all cases wherein the judge of *circuit* may consider the punishment prescribed in Clause First, Section III., Regulation VI. of 1811, to be too severe.

Clauses Second and Third, Section III. of this regulation, made applicable to the cases provided for in Clause First, Section III., Regulation VI., 1811.

VI. *First.* Section XIX., Regulation VIII. of 1802, is hereby rescinded.

Section XIX., Regulation VIII. of 1802, rescinded.

See Act I., 1840.

Second. In all instances wherein the futwa *of the law officers of the Foujdarry Adawlut* shall declare the prisoner or prisoners liable to more severe punishment than, under the evidence, and all the circumstances of the case, shall appear to that court to be just and equitable; and the Mahomedan law shall not allow a discretion to the court in determining the degree of punishment (as it does in all cases of tazeer), the Court of Foujdarry Adawlut are hereby empowered to mitigate or remit the punishment, as may appear to them proper.

Court of Foujdarry Adawlut empowered to mitigate or remit the punishment in cases specially provided for by the Mahomedan law.

See Sec. xxxiii., Act VII., 1843.

VII. Section XXV., Regulation VII. of 1802, is hereby rescinded.

Section XXV., Regulation VII., 1802, rescinded.

Courts of Circuit, how to proceed when the evidence of witnesses may on insufficient grounds be considered by the law officers to be inadmissible.

VIII. In cases in which the evidence of a witness on a criminal trial before a *Court of Circuit* may be declared by the Mahomedan law officer inadmissible, or incompetent, on the ground of the witnesses not professing the Mahomedan religion, of his being a police officer, or an officer of Government of any description, or any other ground of exception in the Mahomedan rules of evidence, which may appear to the judge of *circuit* unreasonable and insufficient, the judge shall cause the examination of the witness to be taken, notwithstanding the exception stated by the law officer, and shall require the latter, on completion of the trial, to declare in his futwa the sentence to which the prisoner would have been liable if the evidence of the witness or witnesses objected to had been admissible, under the provisions of the Mahomedan law. In such cases, however, if the conviction of the prisoner depend exclusively, or principally, upon the evidence of the witness or witnesses objected to by the law officer, the judge of *circuit* shall not pass any sentence, but shall refer the trial to the Court of Foujdarry Adawlut to be disposed of by them under the general regulations.

Modified by Reg. VI., 1829.

IX. In amendment of Clause Second, Section III., Regulation VI. of 1822, it is hereby declared, that, in cases of theft, where the amount or value of the property stolen shall exceed the sum of three hundred *Madras* rupees, the amount shall be deemed a circumstance taking the case out of the jurisdiction of the *criminal judge* as to passing sentence on the accused, and shall make it necessary for him to commit the accused for trial before the *Court of Circuit.*

Clause Second, Section III., Regulation VI., 1822, amended.

X. [Provision for trial of cases under examination at the time of passing this regulation.]—*Extinct.*

A.D. 1825. REGULATION II

[FRAMED WITH REFERENCE TO REGULATION XVI., 1824, OF THE BENGAL CODE.]

A REGULATION *for modifying and amending certain Provisions contained in Regulation XIII. of* 1816, *Regulation II. of* 1817, *and Section VI., Regulation XXXIV. of* 1802: PASSED *by the Honourable the Governor in Council of Fort St. George, on the* 15*th of April,* 1825.

Preamble.

WHEREAS the provision contained in Section IX., Regulation XIII. of 1816, which declares that any of the several instruments therein specified which may not have been written on paper or other material bearing the prescribed stamp, shall not be admitted in evidence, or otherwise received or filed in any Court of Judicature, may frequently operate to the injury of rightful claimants, and is not requisite for the protection of the revenue; and whereas it is considered proper, in modification of the provisions of Sections XI. and XX., Regulation XIII. of 1816, to prescribe that bonds or other instruments for sums not exceeding sixty-four rupees, wills, and miscellaneous petitions addressed to the Board of Revenue, shall not be required to be written on stamped paper; and whereas it appears expedient to rescind Section VI., Regulation II. of 1817, the imposition of a stamp-duty on abkarry licenses being nugatory as a mode of raising revenue; and whereas the provision contained in Section VI., Regulation XXXIV. of 1802, that bonds or instruments bearing a higher rate of interest than twelve per cent. shall not be recoverable in the Courts of Adawlut, is considered to be objectionable on general grounds of policy, and it is deemed sufficient to provide that the amount of interest stipulated in such bonds or instruments, in excess of the legal rate, shall not be recoverable,—the following rules have been enacted, to be in force from the date of their promulgation.

Section IX., Regulation XIII. of 1816 rescinded.

II. Section IX., Regulation XIII. of 1816, is hereby rescinded.

Bonds or other instruments not written on paper bearing the prescribed stamp not to be admitted in evidence or received in any Court of Judicature except upon payment of a penalty equal to ten times the amount of the stamp-duty.

III. *First.* From and after the date of the promulgation of this regulation, any bond, promissory note, bill of exchange, letter of credit, or other obligation for the payment of money—any receipt or acquittance, by which any sum of money or demand shall be acknowledged to have been paid, received, liquidated, discharged, accounted for, or in any manner satisfied—any deed of gift, sale, or other transfer of property, real or personal—any lease, deed of mortgage, or other limited assignment of land—any deed of contract, partnership, security, or engagement—which may not have been written on paper or other material bearing the prescribed stamp, shall not be admitted in evidence or otherwise received, or filed in any Court of Judicature, until the party presenting the same shall have paid a penalty equal to ten times the amount of the stamp-duty which would have been payable on such bond or other instrument, in the first instance, if it had been prepared on paper or other material bearing the prescribed stamp.

Payment of the penalty to be certified on instruments so admitted.

Second. When instruments may be admitted, on payment of the penalty prescribed in Clause First of this section, in any Court of Judicature, the payment of the penalty shall be certified upon the instrument by the

court, and such certificate shall render the instrument ever after admissible, in the same manner as if it had been duly stamped.

Third. The certificate mentioned in Clause Second of this section shall specify the date and place of the payment of the penalty, the amount, and the name of the party by whom it may be paid; and a corresponding entry of such payments shall be made by the court in a book to be kept for that purpose.

Certificate, what to contain.

To be registered.

Fourth. In cases where the penalty prescribed in Clause First of this section may be levied by a village or district punchayet, the amount shall be remitted to the district moonsif, with a memorandum of the date and place of payment, and the name of the party by whom it may be made.

Amount of penalties levied by village or district punchayets to be remitted to the district moonsif.

Fifth. District moonsifs shall remit the sums received by them under the provisions of Clause Fourth, and also the amount of penalties levied by themselves under the provisions of Clause First of this section, to the zillah judge,* accompanied by a memorandum of the date and place of payment, and the name of the party by whom it may be made; corresponding entries of which payment shall be made by the zillah judge* in a book specially kept for that purpose.

Who shall remit the same to the Zillah Court.

Sixth. If on the presentation of any instrument bearing the prescribed certificate of payment of the penalty the court see reason to believe the certificate to be forged, a reference shall be made to the register of payments kept by the *Zillah* or *Provincial Court*, for the purpose of ascertaining whether the penalty was paid according to the tenor of the certificate.

When the certificate may appear to be forged a reference to be made to the register.

IV. In modification of the provisions contained in Section XI., Regulation XIII. of 1816, it is hereby declared that instruments for sums not exceeding sixty-four rupees, and wills, shall not be required to be written on stamped paper.

Instruments for sums not exceeding sixty-four rupees, and wills, not required to be on stamped paper.

V. In modification of the provisions contained in Section XX., Regulation XIII. of 1816, it is hereby enacted that petitions on unstamped paper shall be received by the Board of Revenue.

Petitions on unstamped paper may be presented to the Board of Revenue.

VI. Section VI., Regulation II. of 1817, is hereby rescinded.

Section VI., Regulation II. of 1817, rescinded.

VII. In modification of the provisions of Section VI., Regulation XXXIV. of 1802, it is hereby enacted that bonds or other instruments shall, from the date of the promulgation of this regulation, be recoverable in the courts, notwithstanding their stipulating for the payment of a higher rate of interest than that which is at present or may be hereafter declared to be the legal rate; provided, however, that the courts shall not allow a higher rate of interest than that prescribed by law upon such instruments.

Instruments bearing a higher rate of interest than the legal rate recoverable in the courts.

Proviso.

* This still remains zillah judge. See Note at beginning of Reg. VI., 1816, and Sec. lii. of that regulation.

A.D. 1825. REGULATION III.

A REGULATION *to prohibit Judges from sitting on the Trial of Appeals in Causes tried before themselves; and to empower the Governor in Council to increase, at his discretion, the Number of Judges of the Provincial Courts of Appeal and Circuit and of the Sudder and Foujdarry Adawlut:* PASSED *by the Honourable the Governor in Council of Fort St. George, on the* 10*th of June,* 1825.

Preamble

WHEREAS it is incompatible with the due and effectual administration of justice that a judge of a zillah or a Provincial Court, or of the Court of Sudder Adawlut, should sit on the trial of an appeal suit, if in the court of prior jurisdiction he tried the cause which is the subject of appeal; and whereas, in order to prevent any failure or delay of justice on such and other occasions, it is expedient that the Governor in Council should be empowered to increase, whenever he may see fit, the number of judges of the Courts of Appeal and Circuit and of the Sudder and Foujdarry Adawlut, without passing a regulation for that purpose,—the Honourable the Governor in Council is therefore pleased to enact this regulation, to have effect from the date of its promulgation.

No judge shall sit on the trial of an appeal in a cause tried before himself while judge of a lower court

II. *First.** No judge of the Court of Sudder Adawlut, or of any *Provincial Court of Appeal,* shall sit on the trial of any appeal in a cause tried before himself as one of the judges of a *Provincial* Court or as a *zillah* judge, neither shall he sign a decree passed on such appeal by the court of which he is a judge.

The provisions of Secs II and III are enlarged by Sec II, Reg. I, 1829.

Or while a register

Second. [*No zillah judge shall try an appeal from a decree passed by himself as a register.*]

No original appeal can now be made, the office of register having ceased to exist under the provisions of Act VII, 1843

An appeal coming before a zillah judge from a decree passed by himself while register, is to be removed to the Provincial Court of the division

III. First. Whenever an appeal may be preferred to a zillah judge against a decree passed by himself as a register, the zillah judge shall forward the petition of appeal, with all the evidence and documents in the case, to the Provincial Court of the division in which the zillah is situated, and the Provincial Courts are hereby empowered and directed to receive such appeals, and to try them and pass judgment therein in conformity with the rules in force for the receiving, trying, and deciding of regular appeals.

The stamps used in such cases to be those prescribed for appeals to Zillah Courts

Second. In all cases forwarded to the Provincial Courts for adjudication under the foregoing clause, the application for the admission of exhibits, the pleadings subsequent to the petition of appeal, and the decree, shall severally be written on the stamped paper prescribed for the preparation of those documents in the Zillah Courts by Sections XVI., XIX., and XXII., Regulation XIII. of 1816.

In special appeals to the Sudder Adawlut in such cases, the stamps

Third. Whenever the Court of Sudder Adawlut may admit a second or special appeal from a decision passed by a *Provincial* Court under the pro-

* Under Section IX., Act VII, 1843, the appeal from the Zillah Court lies to the Sudder Adawlut.

visions of this section, the pleadings and other documents required to be prepared on stamped paper shall be written on stamped paper of the value prescribed in cases of special appeals admitted by *Provincial* Courts from decrees of *zillah* judges.

to be the same as in special appeals from *Zillah* to *Provincial* Courts

IV. The Governor in Council is empowered, whenever he may deem it expedient, to appoint additional judges to [*any of the Courts of Appeal and Circuit or to*] the Court of Sudder and Foujdarry Adawlut.

The Governor in Council may appoint additional judges to *the Provincial Courts or* the Sudder Adawlut.

A.D. 1825. REGULATION IV.

A REGULATION *for amending and modifying the Provisions contained in Regulation VII. of* 1818: PASSED *by the Honourable the Governor in Council of Fort St. George, on the* 12*th of July*, 1825.

WHEREAS the rules contained in Section IV., Regulation VII. of 1818, whereby suits in which the cause of action may not exceed eighty rupees, and suits for the recovery of pecuniary penalties incurred by any breach of the regulations, are excluded from cognizance as pauper suits, and judges are prohibited from referring pauper suits to the native judicatories, are considered to operate with severity upon the poorer classes, as well by occasionally preventing the trial of just demands as by obliging them to an inconvenient attendance upon the Zillah Courts, to which other suitors are not subjected; and whereas it has been found that the provisions of Clause Second, Section V. of the regulation, do not oppose an efficient check to the institution of groundless pauper suits, while, on the other hand, the obligation imposed on the courts by Clause Third of that section to reject the pauper's application, if the opinion of the vakeel shall be that his case is not sustainable, may occasionally have the effect of excluding from trial well-founded claims; and whereas it is therefore deemed expedient that the above-mentioned rules and provisions should be modified, this regulation has been enacted, to be in force from the date of its promulgation.

Preamble.

II. In modification of the provisions of Clause First, Section IV., Regulation VII. of 1818, it is hereby declared that suits in which the cause of action shall exceed ten rupees, and suits for the recovery of pecuniary penalties incurred by any breach of the regulations, shall be admissible as pauper suits.

Suits of certain descriptions to be admissible as pauper suits.

III. *First.* Clause Second, Section IV., Regulation VII. of 1818, is hereby rescinded.

Rescission

See Sec. i., Act IX., 1844.

Second. It shall be competent to the *Zillah* Courts to refer, at their discretion, to the sudder ameens and district moonsifs such pauper suits

Pauper suits referrible to native judicatories

admitted by them as may, with reference to the value of the cause of action, be cognizable by those officers respectively.

The vakeel's opinion on the merits of a pauper's claim to be accompanied by a statement of the grounds of such opinion.

IV. In modification of the provisions of Clause Second, Section V., Regulation VII. of 1818, it is hereby prescribed, that the opinion which the vakeel is thereby required to give that a suit proposed to be instituted by a pauper is or is not sustainable, shall be in all cases accompanied by a statement of the grounds on which such opinion is formed.

Rescission.

V. *First.* Clause Third, Section V., Regulation VII. of 1818, is hereby rescinded.

Courts empowered to overrule the opinion of a vakeel against a pauper's claim.

Second. In cases wherein the opinion of the vakeel may be against the claim of the party wishing to sue as a pauper, it shall be competent to the court, on application from such party, to take into consideration the grounds of the vakeel's opinion, and, should it see fit, to admit the applicant to sue in formâ pauperis.

Courts empowered to overrule the opinion of a vakeel in favour of a pauper's claim.

Third. In cases wherein the opinion of the vakeel may be in favour of the claim of a party wishing to sue as a pauper, it shall be competent to the court, after taking into consideration the grounds of that opinion, to reject the application of such party to sue in formâ pauperis.

Courts to record the grounds of resolution passed under Clauses Second and Third of this section, which shall be final.

Fourth. Whenever the court may admit a party to sue in formâ pauperis under Clause Second, or reject his application under Clause Third of this section, the grounds of such resolution shall be recorded; but no appeal shall be allowed therefrom.

A.D. 1825. REGULATION V.

A REGULATION *for modifying the Provisions of Section XLIII., Regulation VI. of* 1816, *regarding Suits for Land:* PASSED *by the Honourable the Governor in Council of Fort St. George, on the* 6*th December*, 1825.

Preamble.

WHEREAS it is considered expedient and necessary to provide against the consequences of erroneous decisions passed by the district moonsifs in suits for land, from which no appeal is admissible under the provisions of Section XLIII., Regulation VI. of 1816, and that the modification of the provisions contained in that section, so far as to allow an appeal from the decisions of district moonsifs in all suits for property in land, will not materially interfere with the beneficial operation of the regulation,—the Governor in Council has been pleased to enact this regulation, to be in force from the date of its promulgation.

All decisions of district moonsifs in suits for landed property passed after the promulgation of this regulation open to appeal.

II. In modification of the provisions contained in Section XLIII., Regulation VI. of 1816, it is hereby enacted, that from all decisions which may be passed by district moonsifs, in suits for property in land, subsequently to the date of the promulgation of this regulation, an appeal shall lie to the Zillah Court, under the rules prescribed in Section LIII. of that regulation.

See Sec. viii., Act VII., 1843.

A.D. 1826. REGULATION I.

A REGULATION *for establishing Rules for the Use, and providing Checks on the Abuse, of the Power of employing summary Process for the Recovery of Arrears of public Revenue, other than the Land Revenue:* PASSED *by the Honourable the Governor in Council of Fort St. George, on the 7th April,* 1826.

Preamble.

WHEREAS it is necessary for the complete and punctual collection of the public revenue, that collectors should have the power of using summary process for the recovery of arrears of public revenue of any description whatever, against all persons, whether farmers of revenue or others, from whom such arrears may be due to Government, and that all farmers of public revenue should have the power of using summary process for the recovery of arrears from their sub-renters; and whereas it is deemed expedient to extend to all branches of the public revenue, the rules, so far as they are applicable for the use, and the special checks upon the abuse, of that power, which have been provided in the case of the land revenue by the regulations now in force,—the Governor in Council has therefore been pleased to enact this regulation, to be in force from the date of its promulgation.

Collectors may use summary process for recovering arrears of any branch of revenue.

II. *First.* It is competent to collectors of the public revenue to proceed against all persons, whether farmers of revenue or others, and against their securities, for the recovery of arrears of revenue of any description, due from them to Government, by the like summary process as may be lawfully used for the recovery of arrears of land revenue.

What rules shall be observed in cases of distraint and imprisonment.

Second. In regard to distraining the property and to imprisoning the persons of defaulters in any branch of the public revenue, or of their securities, the same rules shall be observed which are enjoined in the case of proprietors or farmers of land by Sections IV., V., VI., VII., and XIII. of Regulation XXVII. of 1802.

The protection which is afforded to proprietors or farmers of land extended to all persons paying public revenue.

III. All persons paying public revenue of any description directly to Government or to the officers of Government, and the securities of all such persons, shall be at liberty to do, under the like circumstances, all such acts as are permitted to proprietors or farmers of land by Sections IX., XI., and XII. of Regulation XXVII. of 1802; and the Courts of Adawlut are required to proceed in the same way regarding all applications made under this section as regarding similar applications made under those provisions by proprietors or farmers of land.

All farmers of revenue authorized to recover arrears from sub-renters by summary process.

IV. All farmers of public revenue are hereby authorized to proceed against their sub-renters for the recovery of arrears of rent, in the same manner in which landholders have power to proceed for the recovery of arrears due to them from under-farmers or ryots.

The protection which

V. The provisions in the regulations now in force for the protection of

is afforded to ryots and under-farmers of land extended to all sub-renters of revenue.

ryots or under-farmers of land revenue, against illegal demands, undue exactions, unlawful distraint or sale, and wrongous imprisonment, are hereby declared applicable to the protection of all sub-renters, under farmers of any branch of public revenue.

A.D. 1826. REGULATION II.

A REGULATION *for Rescinding Clause Fourteenth, Section XVIII., Regulation II. of* 1812: PASSED *by the Honourable the Governor in Council of Fort St. George, on the* 11*th of April,* 1826.

Preamble.

WHEREAS the Act of the 51st George III., cap. 23, contains provisions for the punishment of the offence of carrying away or removing, from any country or place whatsoever, any person or persons, as a slave or slaves, or for the purpose of being sold or dealt with as a slave or slaves; and whereas Clause Fourteenth, Section XVIII., Regulation II. of 1812, by which the exportation of slaves from Malabar is prohibited under the penalty of a fine of two hundred and fifty rupees, is unnecessary and inconsistent with the act aforesaid,—the Governor in Council has therefore been pleased to enact this regulation.

Rescission.

II. Clause Fourteenth, Section XVIII., Regulation II. of 1812, is hereby rescinded.

A.D. 1826. REGULATION III.

A REGULATION *for the more easy Conviction of the Crime of Perjury in certain Cases:* PASSED *by the Honourable the Governor in Council of Fort St. George, on the* 17*th October,* 1826.

Preamble.

IN prosecutions for perjury under the provisions of Sections III. and IV., Regulation VI. of 1811, it has been determined that the matter or matters of fact, wherein the perjury is assigned, must be set forth in the charge, and that the evidence of two or more witnesses is necessary to disprove the said matter or matters of fact; but numerous cases have occurred in which a party or witness has given two contradictory depositions in regard to the same matter or matters of fact; and, although in such cases one of the two depositions must necessarily be false, it is often difficult to ascertain in which deposition the perjury was committed, and this heinous crime thus frequently escapes punishment. It is necessary therefore, for

the ends of justice, to provide for the more easy conviction of the crime of perjury in these cases; and for this purpose the Governor in Council has enacted the following rules, to be in force from the date of their promulgation.

II. *First.* If a party or witness shall wilfully and deliberately give two contradictory depositions *on oath, or* under a solemn declaration taken instead of an oath, on a matter or matters of fact material to the issue of a judicial proceeding, such party or witness shall be liable to be committed for trial before the *Court of Circuit* for wilful and corrupt perjury; provided that the contradiction between the two depositions be direct and positive, and that, upon the whole circumstances of the case, there be strong grounds to presume the corrupt intention of the party or witness.

Persons giving two contradictory depositions on *oath* liable to be committed for trial for wilful and corrupt perjury.

Proviso

Second. For the conviction of a person committed for trial on a charge of perjury under the preceding clause, no other evidence shall be requisite than clear and satisfactory proof that the party or witness, *having been duly sworn, or* having made a solemn declaration instead of an oath, wilfully and deliberately caused the two contradictory depositions to be taken down in writing, and that, before he affixed his signature or mark thereto, their contents were distinctly read over to him.

Evidence requisite for the conviction of persons committed for perjury under the preceding clause.

Third. Persons convicted under the foregoing clause shall be liable to the punishment prescribed for perjury by Section III., Regulation VI. of 1811, subject to the rules established for the remission or mitigation of the punishment in other cases of conviction.

Punishment to be adjudged on conviction under the preceding clause.

III. It is hereby declared that a person who, under the rules contained in the foregoing section, has been tried on a charge of perjury, founded on his two contradictory depositions, shall not, whether convicted or acquitted, be afterwards liable to a prosecution for the same offence, charging the perjury in the usual way specifically on either of the said two depositions.

Persons tried for perjury under this regulation not liable to a second prosecution for the same offence, charging the perjury on either of the two contradictory depositions.

A.D. 1827. REGULATION I.

A Regulation *for the Establishment of Auxiliary Zillah Courts in the Territories subject to the Presidency of Fort St. George, and for the Appointment of Assistant Judges* and Sudder Ameens to those Courts:* Passed *by the Governor in Council of Fort St. George, on the* 20*th February,* 1827.

It has been deemed expedient, for the more prompt and efficient administration of justice, that auxiliary courts, with the full power and authority of Zillah Courts, should be established in any of the zillahs in

Preamble.

* The judges appointed under this regulation are termed in Act VII., 1843, and succeeding enactments, Subordinate Judges, the title Assistant Judge being reserved for the officers appointed under the provisions of Sec. hi., Act VII., 1843.

the territories subject to this Presidency, in which, from the pressure of business before the zillah judges or from any other cause, the establishment of such courts may appear requisite or proper; and that a convenient portion of the zillahs in which such auxiliary courts may be established should be transferred to the separate jurisdiction of those courts; for this purpose the Governor in Council has enacted the following regulation, to be in force from the date of its promulgation.

Auxiliary Zillah Courts to be established.

II. *First.* The Governor in Council is empowered, whenever he may deem it expedient, to establish auxiliary courts in any of the zillahs in the territories subject to this Presidency, and to transfer to the separate jurisdiction of those courts such portion of the zillahs in which they may be stationed respectively as may appear proper.

See Sec. iv., Act VII., 1843.

Section II., Regulation I., 1821, applicable to such courts.

Second. The provisions of Section II., Regulation I., 1821, shall be applicable to the courts established under this regulation.

Each auxiliary court to be superintended by an assistant judge.

III. *First.* Each auxiliary court established under this regulation shall be superintended by an officer denominated "*assistant* judge"* of the zillah in which it may be stationed; and previously to entering on the duties of his office, the *assistant* judge shall take and subscribe before the Governor in Council, or before any person whom the Governor in Council may commission to administer it, a similar oath to that which is directed by Section XIII., Regulation II., 1802, to be taken and subscribed by the judges of the Zillah Courts.

See Act XXI., 1837.

Oath to be taken by the assistant judge.

Seal to be used by the assistant judges.

Second. The *assistant* judges shall use a seal of the same form and dimensions as the seal directed by Section XIV., Regulation II., 1802, to be used by the Zillah Courts, bearing an inscription in the Persian character and language, and in the character and language of the district, to the following effect: viz. "The Seal of the Auxiliary Court in the zillah of ."

Pleaders and ministerial officers to be appointed to each auxiliary court.

IV. A sufficient number of pleaders shall be appointed to each auxiliary court under the provisions contained in Regulation XIV., 1816, and [*Regulation V.*, 1817;] and such establishment of ministerial officers as may appear necessary shall also be attached to each court.

Substitute Act XXVII., 1836, and Sec. iv., Act I., 1846.

Jurisdiction of assistant judges.

V. *First.* The same power and authority as is now vested in zillah judges, and subject to the same rules and restrictions, shall be exercised by the *assistant* judges within the limits assigned to the local jurisdiction of their courts respectively; and all original suits of an amount or value not exceeding the sum of rupees 5,000,† arising within such limits, shall be cognizable by them, and not by the zillah judges.

† Substitute 10,000, under Sec. iv., Act VII., 1843.

Second. [Appeals from district moonsifs to lie to the assistant judges.]—*Superseded by Section VIII., Act VII.*, 1843.

Third. [To what courts appeals from assistant judges shall lie.]—*Superseded by Section VIII., Act VII.*, 1843.

Fourth. [What special appeals admissible from assistant judges.]—*Superseded by Act III.*, 1843.

* See Note, page 455.

VI. *First* and *Second*. [What suits the zillah judge may refer to assistant judge.]—*Superseded by Sections I. and III., Act VII.*, 1843.

Third. [Apportionment of pleaders' fees in certain cases.]—*Repealed by Section II., Act I.*, 1846.

Rescinded by Sec. II., Reg. IV., 1832, and see Sec. III., Act XXIV., 1836.

Sudder ameens may be appointed to the auxiliary courts.

VII. *First*. It shall be competent to the Governor in Council to authorize the appointment of persons [*of the Hindoo or Mahomedan persuasion, not holding the situation of law officers,*] to be sudder ameens in the auxiliary courts established by this regulation, with the powers and subject to the rules prescribed for the sudder ameens acting under Regulation VIII., 1816.

See Sec. I., Act XXIX., 1836, and Sec. XXIV., Act VII., 1843.

Sudder ameens, how to be appointed.

Second. Whenever the Governor in Council may authorize the appointment of a sudder ameen to any of the auxiliary courts, the *assistant* judge shall recommend to the *Provincial Court* such person as he may deem fit for the office, and no person shall be appointed to officiate as sudder ameen without the previous sanction of the *Provincial Court*.

See Acts XXI., 1837, and V., 1840.

Oath to be taken by the sudder ameens.

Third. Every sudder ameen appointed under this regulation, previously to entering on the duties of his office, shall take and subscribe before the *assistant* judge *an oath, or in lieu of such oath shall subscribe* a solemn declaration, as required by Section V., Regulation VIII., 1816, in respect of the sudder ameens of the *Zillah Courts*.

Fourth. [Regular appeal to lie from sudder ameens to assistant judges.] —*Superseded by Section VIII., Act VII.*, 1843.

[What special appeals admissible.]—*Superseded by Section I., Act III.*, 1843.

Law officers of the Zillah Court to expound the law for *assistant* judges,

VIII. *First*. Whenever the *assistant* judge may require an exposition of the law in original suits or appeals pending before him, he shall transmit a written abstract of the case to the judge of the zillah, for the purpose of its being referred for the opinion of the Hindoo or Mahomedan law officer attached to the *Zillah Court*.

And for sudder ameens.

Second. In like manner, when a sudder ameen appointed under this regulation may require an exposition of the law in any case pending before him, he shall submit a written abstract of the case to the *assistant* judge, who shall obtain the opinion of the Hindoo or Mahomedan law officer of the *Zillah Court* in the mode directed in the preceding clause.

The provisions of the general regulations for the guidance of the zillah judges and their subordinate officers applicable to *assistant* judges and their subordinate officers.

IX. It is hereby declared that all the provisions of the regulations which are now in force, or may hereafter be enacted for the guidance of the zillah judges in their proceedings and decisions, and generally in all matters relating to the discharge of their functions, whether ministerial or judicial, shall, as far as consistent with this regulation, be applicable to the *assistant* judges appointed under this regulation; and the subordinate officers attached to the auxiliary courts shall be subject to and be guided by the same rules as are or may be established in respect to officers of the same description employed in the *Zillah* Courts.

A.D. 1827. REGULATION II.

A REGULATION *for constituting the Assistant Judges appointed under Regulation I.*, 1827, *joint Criminal Judges of the Zillahs in which they may be stationed, and for defining the Extent to which the Powers of Magistrate shall be exercised by Subordinate Collectors:* PASSED *by the Governor in Council of Fort St. George, on the 20th February*, 1827.

Preamble.

FOR the more prompt and efficient administration of criminal justice it has been deemed expedient that the assistant judges appointed under Regulation I., 1827, should exercise in every respect, within the limits of their local jurisdiction, the same authority and powers as are vested in criminal judges under the regulations which are now in force or may hereafter be enacted. It has also been deemed expedient to define the extent to which the powers of magistrate shall be exercised by subordinate collectors. For these purposes the Governor in Council has passed the following regulation, to be in force from the date of its promulgation.

Assistant judges to be joint criminal judges.

II. *First. Assistant judges** appointed under Regulation I., 1827, shall be *joint criminal judges** of the zillahs in which they are respectively stationed; and shall exercise, within the limits assigned to their local jurisdiction, the full power and authority of *criminal judges.*

Oath to be taken by *joint criminal judges.*

Second. Every *joint criminal judge*, previously to entering on the duties of his office, shall take and subscribe before the Governor in Council, or before any person whom the Governor in Council may commission to administer it, a similar oath to that which is directed by Section II., Regulation X., 1816, to be taken and subscribed by the *criminal judges.*

See Act XXI., 1837.

Joint criminal judges in all matters to be guided by the rules prescribed for the guidance of criminal judges.

III. *Joint criminal judges* in all matters relating to the discharge of their functions shall be guided by the provisions of Regulation X., 1816, and of such other regulations as have been or may hereafter be enacted for the guidance of *criminal judges.*

The Governor in Council to determine from time to time whether there shall be a general gaol delivery for the whole zillah at one station only, or a separate one at each station.

IV. [*The Governor in Council, under the provisions of Section II., Regulation I.*, 1821, *will determine, from time to time as he may see fit, whether a general gaol delivery for the whole zillah shall be held at one station only, or whether the gaols of the criminal judge and the joint criminal judge shall be separately delivered.*]

Superseded by Secs. xxix. and xxx., Act VII., 1843. See preliminary Note to Reg. II., 1831.

Subordinate collectors to exercise the powers of magistrate within their revenue limits;

V. *First.* It is hereby provided that every subordinate collector shall have full authority to exercise, within the portion of the district placed under his charge, the powers granted to collectors as magistrates by Regulation IX., 1816, or by any other regulation.

And elsewhere, when authorized by the magistrate.

Second. It is hereby provided that it shall also be competent to a subordinate collector further to exercise the powers above specified either

* The judges appointed under this regulation are termed in Act VII., 1843, and succeeding enactments, "Subordinate Judges." The duties of the Criminal Judge devolve upon them and upon the Principal Sudder Ameens appointed under Reg. VIII., 1827.

generally throughout the district or specially for the conducting of any inquiry at the Huzzoor station, or in any other part of the district, when delegated to him by the collector as magistrate.

Third. The exercise of the powers described in the preceding clauses of this section by the subordinate collector shall not supersede or exclude the authority of the collector as magistrate throughout the whole district, but shall, as far as occasion may require, be subordinate thereto.

Authority of the magistrate throughout the district not superseded thereby.

Fourth. Subordinate collectors, in the exercise of the powers above specified, shall be designated "joint magistrates."

Subordinate collectors in the exercise of the powers of magistrate to be called joint magistrates.

A.D. 1827. REGULATION III.

A REGULATION *for empowering the Governor in Council in certain Cases to direct that Persons charged with Crimes or Misdemeanours shall be sent for Trial or Committal to another Court than that within the Jurisdiction of which the Offences charged were committed:* PASSED *by the Governor in Council of Fort St. George, on the* 16*th March*, 1827.

Preamble.

WHEREAS by Clause Second, Section XXIV., Regulation IX., 1816, and Clause Fourth, Section XXVII., Regulation XI., 1816, magistrates and tahsildars respectively are required to send prisoners against whom there is evidence of having been concerned in any crime or misdemeanour to "the criminal judge of the zillah,"—by which is to be understood the judge presiding in the court within the jurisdiction of which the crime or misdemeanour was committed: and whereas cases may occur in which the ends of justice would be furthered by the trial of the prisoners taking place in another court than that within the jurisdiction of which the offence was committed,—the Governor in Council has therefore enacted this regulation, to be in force from the date on which it is promulgated.

Magistrates when of opinion that prisoners should be tried in some other zillah, to report to the Foujdarry Adawlut, and that court to Government.

II. *First.* When a magistrate shall be of opinion, from any particular circumstances connected with the case of a prisoner whom, under Clause Second, Section XXIV., Regulation IX., 1816, it is his duty to send to the *criminal judge* of the zillah, that it is necessary, in furtherance of the ends of justice, that such prisoner should be tried, or committed for trial, in some other court than that within the jurisdiction of which the offence charged against him was committed, he shall report that opinion, together with the grounds of it, and the circumstances of the case, to the Court of Foujdarry Adawlut; and that court shall submit the same, with their opinion, to the Governor in Council.

Criminal judge the same.

Second. When a *criminal judge* shall be of opinion, from any particular circumstances connected with the case of a prisoner forwarded to him by a tahsildar, under Clause Fourth, Section XXVII., Regulation XI., 1816, that it is necessary, in furtherance of the ends of justice, that such prisoner should be tried or committed for trial by some other court, he shall report

that opinion, together with the grounds of it, and the circumstances of the case, to the Court of Foujdarry Adawlut; and that court shall submit the same, with their opinion, to the Governor in Council.

The Governor in Council competent to order prisoners to be tried in another zillah.

III. On the receipt of such report from the Foujdarry Adawlut, or of other sufficient information, it shall be competent to the Governor in Council to order a prisoner to be sent for trial or committal to whatever court may appear to him most proper for the furtherance of the ends of justice.

Mode of proceeding when a prisoner is ordered to be tried in another zillah.

IV. When a prisoner shall be ordered to be sent to any other court than that within the jurisdiction of which the offence charged was committed, he shall be sent accordingly, together with the prosecutor, witnesses, and documents in his case, and with a certified copy of the order of Government; and that order shall be sufficient authority for the *criminal judge* to whom he is therein directed to be sent, and eventually for the *Court of Circuit for the division*, to proceed, respecting his case, in the same manner as if he had been sent by the magistrate or a tahsildar within their own jurisdiction.

A.D. 1827. REGULATION IV.

A REGULATION *for the more effectual Prevention of the undue Use of spirituous and fermented Liquors and intoxicating Drugs by the European Troops serving under the Presidency of Fort St. George:* PASSED *by the Governor in Council of Fort St. George, on the* 10*th April*, 1827.

[Rescinded by Section II., Regulation VII., 1832.]

A.D. 1827. REGULATION V.

A REGULATION *for establishing Rules and Articles for the better Government of the Native Officers and Soldiers in the Service of the United Company of Merchants of England trading to the East Indies, under the Presidency of Fort St. George:* PASSED *by the Governor in Council of Fort St. George, on the* 24*th April*, 1827.

[Superseded by the new Articles of War in Act XX., 1845.]

A.D. 1827. REGULATION VI.

A REGULATION *for explaining the Provisions of Clause First, Section V., Regulation XV.*, 1803, *and Clause Fourth, Section III., Regulation VI.*, 1822; *for making farther Provisions against the Offence of Counterfeiting the Coin; for declaring Magistrates empowered to take Recognizances and Security for keeping the Peace in certain Cases; for enlarging the Power granted to Magistrates by Clause First, Section III., Regulation II.*, 1822; *for modifying and amending the Rules in force relating to the Requisition of Security for good Behaviour; and for subjecting to Compulsory Labour Persons unable to find the Security required:* PASSED *by the Governor in Council of Fort St. George, on the* 15*th May*, 1827.

Preamble.

IT is provided by Clause First, Section V., Regulation XV., 1803, that in cases of secret theft or larceny, without open violence, the Mahomedan law, with the modifications of it in the existing regulations, and the rules contained in Section II. of the said Regulation XV. of 1803, shall govern the sentences of the Courts of Circuit as well as of the Foujdarry Adawlut in any cases referred to that court. In the construction of this clause, it has been doubted whether the Courts of Circuit and the Foujdarry Adawlut, in commutation of a sentence of Hud under the Mahomedan law, in cases of theft, are competent to adjudge stripes in addition to imprisonment for the term of seven years prescribed by Section XXI., Regulation VII., 1802; and it is necessary to remove all doubts on this point, and to declare the competency of the said courts to adjudge stripes, in addition to imprisonment for the prescribed term of seven years, in all aggravated cases of theft. Moreover, the construction given to the provisions of Clause Fourth, Section III., Regulation VI., 1822, having injuriously operated to abridge the discretion of the criminal judges in proportioning punishment to crime in the cases therein specified, and to take away from the magistrates and heads of district police the power intended to be left with them of punishing in petty cases of cattle-stealing, an explanation of those provisions has become necessary. It has also been deemed necessary for the further prevention of the offence of counterfeiting coin, to declare the making, mending, buying, selling, concealing, or possessing of implements used exclusively in coining, without lawful authority or sufficient excuse, to be a misdemeanour, and to prescribe the punishment to which persons convicted thereof shall be liable. Moreover, the regulations in force contain no express provision empowering magistrates to take personal recognizances for the maintenance of the peace in their respective jurisdictions, nor expressly sanction the requisition of security to keep the peace, except from persons charged with criminal offences, whilst the charge is under examination, although it has been the established usage to require such personal recognizances, and also securities for keeping the peace in cases other than those expressly provided for; and it has been deemed expedient to declare that nothing contained in the existing regulations was intended to preclude the magistrates from the exercise of a discretion so necessary to the due mainte-

nance of the peace in their respective jurisdictions, and also to provide that the orders of the magistrates in the exercise of this discretion shall be liable to revision by the judges on circuit. Further, the power vested in magistrates by Section III., Regulation II., 1822, to take from vagrants and others security for their appearance when required, has been found insufficient to accomplish the object for which that power was granted; and in order effectually to restrain such persons from the practice of their evil habits, it has been deemed necessary to vest magistrates with authority to require from them security for their good behaviour. And in these and other cases in which security may lawfully be demanded, it is expedient that the responsibility incurred by sureties should be defined; that the term for which persons unable to find the security required are to be imprisoned should, except in particular cases, be limited in the order requiring it; and that persons confined in default of security should be subjected, under certain restrictions, to compulsory labour,—the Honourable the Governor in Council, therefore, for the several reasons and purposes above mentioned, has enacted the following rules.

Clause First, Section V., Regulation XV., 1803, explained.

Stripes in addition to imprisonment adjudicable in aggravated cases of theft.

II. It is hereby declared, in explanation of Clause First, Section V., Regulation XV., 1803, that the reference therein made to the Mahomedan law in cases of theft was not intended and shall not be considered to preclude the *Courts of Circuit* and the Foujdarry Adawlut from adjudging corporal punishment, not exceeding *thirty-nine stripes with a rattan*, in addition to imprisonment for the term of seven years, whenever such punishment in aggravated cases of theft may appear just and proper. See Reg. VIII., 1828.

Clause Fourth, Section III., Regulation VI., 1822, explained.

In the cases specified, the *criminal judge* competent to sentence to any punishment not exceeding imprisonment for two years and thirty stripes; and petty cases of cattle-stealing punishable by magistrates, and heads of district police.

III. In explanation of Clause Fourth, Section III., Regulation VI., 1822, it is hereby declared that nothing contained therein shall be construed to require that persons convicted before the *criminal judge* of any of the offences specified in that clause, shall in all cases be sentenced to a severer punishment than he is empowered to inflict under Section VII., Regulation X., 1816, or to take away from the magistrates and heads of district police the power of punishing in petty cases of cattle-stealing. But in all cases of conviction before the *criminal judge* of any of the offences specified in that clause, he shall be competent to use his discretion in sentencing the offender to any punishment which he may think proper, provided that the punishment shall in no case exceed imprisonment with hard labour for the term of two years, and *thirty stripes with a rattan*; and petty cases of cattle-stealing shall be punishable as heretofore by magistrates and heads of district police, like other petty thefts, under the provisions of Section XXXIII., Regulation IX., 1816, and Section IV., Regulation IV., 1821. See Reg. VIII., 1828.

The making, mending, buying, selling, concealing, or having possession of implements for coining declared a punishable offence.

IV. *First.* From and after the 1st day of October, 1827, it shall be unlawful for any person subject to the jurisdiction of the courts in the provinces, except by the direction or under the authority of the officers of Government, knowingly to make or mend, or to buy or sell, or conceal, or to have in his possession, any tool or instrument used exclusively for coining money, or any stamp, or mould, or die, or other implement whatsoever, capable of producing the exact impression, or so near a resemblance as to be mistaken for the impression of any of the gold, silver, or copper

coins of the British Governments in India, or of any coin usually received as money in the British possessions in India; and it is hereby declared that every such act shall be punishable as a misdemeanour under the following rules.

Second. On receiving a charge of any of the acts mentioned in the preceding clause, the magistrate or the head of district police shall proceed as is directed in all other cases of misdemeanour under the general regulations; and if there shall be reasonable grounds to believe the charge well founded, he shall forward the prosecutor, the witnesses, and the accused, with all the proceedings in the case, to the *criminal judge* of the zillah.

Mode of procedure on charges of this nature.

Third. Any person who shall be convicted before the *criminal judge* of any of the acts mentioned in Clause First of this section, without shewing lawful authority or sufficient excuse for the same, shall be sentenced to imprisonment and hard labour in irons for a term not exceeding one year for the first offence; and for a second offence, committed after his conviction of the first, he shall be sentenced to receive corporal punishment, not exceeding *thirty stripes with a rattan*, and to be imprisoned and kept to hard labour in irons for a term not exceeding eighteen months.

Punishment for a first offence.

Punishment for a second offence.

See Reg. VIII., 1828.

Fourth. For a third or any subsequent offence under this section, the offender shall be committed for trial before the *Court of Circuit;* and on conviction thereof, shall be sentenced to receive corporal punishment not exceeding *thirty-nine stripes with a rattan*, and to be imprisoned and kept to hard labour in irons, in banishment, at the discretion of the judge, for a term not exceeding seven years.

Punishment for a third or subsequent offence.

See Reg. VIII., 1828.

V. *First.* It is hereby declared that nothing contained in the existing regulations was intended or shall be considered to preclude magistrates from taking personal recognizances, or security, for keeping the peace, or both, at their discretion, in all cases wherein it may appear just and necessary to require the same for the due maintenance of the peace within their respective jurisdictions; and if such recognizance is not entered into, or such security is not found, to commit the persons from whom they are demanded to gaol; provided, however, that when there is no conviction of an actual breach of the peace, the amount respectively of the recognizance and of the security to be demanded, shall in no instance hereafter exceed the sum of 200 rupees; and that the period for which the security is required, whether on conviction of an actual breach of the peace or otherwise, shall in no case exceed the term of twelve months, at the expiration of which the party shall be released, if on default of security he shall have been detained in custody.

Magistrates declared competent to take recognizances or security for keeping the peace.

Provided that hereafter the amount respectively of the recognizance and security shall not exceed two hundred rupees, except on conviction of an actual breach of the peace, and that in no case the period for which the security is required shall exceed one year.

*Second.** It is further provided, that on petition from parties considering themselves aggrieved by the requisition of recognizances or security for keeping the peace, it shall be competent to the *judge on circuit* to call upon the magistrates for such explanations as may appear necessary in such cases; and on due consideration thereof, to order the discharge, or to alter the amount of the recognizance and securities, or to direct the release of the persons confined, if he shall see fit.

The proceedings in such cases open to the revision of the *judge of circuit*, on complaint by parties aggrieved by the demand of security.

Third. Magistrates are hereby declared competent, at their discretion,

Magistrates competent to discharge recog-

* This clause was specially declared applicable to Session Judges by Sec. xxxvii., Act VII., 1843.

nizances and securities, and to release persons confined in default thereof.

to discharge recognizances and securities for keeping the peace taken by themselves, and to order the release of persons confined under their own order in default of entering into such recognizances, or giving such securities.

The power granted to magistrates by Clause First, Section III., Regulation II., 1822, extended to the taking of security for good behaviour from the persons therein described.

The informations or evidence received in all these cases to be recorded by the magistrate.

VI. *First.* In addition to the power granted to magistrates by Clause First, Section III., Regulation II., 1822, it shall be competent to them to require security for good behaviour from persons of the descriptions therein specified, and in default of its being given, to order such persons to be received and detained in the custody of the *criminal judge.*

Second. In all cases wherein a magistrate may require security for appearance under Clause First, Section III., Regulation II., 1822, or security for good behaviour under Clause First of this section, he shall record the informations or evidence on which his proceeding is founded, to be transmitted to the *judge on circuit*, if that officer should see fit to call for them.

Provisions of Clause Third, Section III., Regulation II., 1822, applicable to persons confined under this section.

Third. The Provisions of Clause Third, Section III., Regulation II., 1822, shall be applicable to persons confined under Clause First of this section.

Nature of the order to be passed by Criminal Courts on requiring security.

VII. *First.* In every instance in which security may be hereafter required, whether by the magistrates, *criminal judges*, the *Courts of Circuit*, or the Foujdarry Adawlut, the amount of security, the number of sureties (to be fixed at the discretion of the officer or court requiring the security), and the period of time for which the sureties are to be responsible, shall be fixed and determined.

The amount of security to be fixed with reference to the situation in life of the party.

Second. The amount of such security shall never be excessive, but shall be always fixed with reference to the situation and circumstances in life of the person from whom it is demanded; as well as to the cause for requiring it; and shall in all cases be such as it would be equitable to enforce in the event of a breach of the engagement.

Period of time for the eventual detention of the party to be fixed.

Third. The period of time during which persons may be made liable to detention in custody, on failure to furnish the security required from them, shall hereafter be specifically fixed in every instance, except in the cases hereinafter particularly mentioned.

Period of detention for security in ordinary cases, under directions of the magistrate or *criminal judge*, not to exceed one year.

VIII. *First.* Whenever the magistrates, under the authority granted to them by Clause First, Section III., Regulation II., 1822, and by Section VI. of this regulation, or the *criminal judges*, under the authority vested in them by Clause First, Section IV., Regulation II., 1822, may require security, they shall, in all cases in which they may deem it safe so to do, provide in their order for the release of the prisoner at the end of a definite period, not exceeding twelve months.

Clause Second, Section III., and Clauses Second and Third, Section IV., Regulation II., 1822, modified.

Revision of these cases by the judge of *circuit* not necessary, except on petition by the parties.

**Second.* In modification of Clause Second, Section III., and of Clauses Second and Third, Section IV., Regulation II., 1822, it is hereby provided, that it shall not be necessary for the judge of *circuit holding the sessions*, to revise the proceedings of the magistrate or *criminal judge* in the cases referred to in the preceding clause, except on petitions presented by the prisoners, when the judge *on circuit* is empowered and directed to call

* These clauses were specially declared applicable to Session Judges by Sec. xxxvii., Act VII., 1843.

for the proceedings, and on his own authority to annul, modify, or confirm the orders of the magistrate or the *criminal judge*.

Third. In all cases in which the magistrate or the *criminal judge*, from the evidence adduced before him, shall be of opinion that the prisoner is by habit a robber, burglar, or thief, or a vender or receiver of stolen property, knowing the same to have been stolen, of a character so dangerous, desperate, or irreclaimable, as to render his release without security, at the expiration of the limited period of twelve months above specified, hazardous to the community, he shall record his opinion to that effect, with an order specifying the amount of security which should in his judgment be required from the prisoner, as well as the number of sureties, and the period for which the sureties should be responsible for the prisoner's good behaviour.

Magistrates and *criminal judges* how to proceed when it appears unsafe to release prisoners without security at the expiration of the period above limited.

**Fourth.* If the prisoner shall not furnish the security so required before the *next sessions of the Court of Circuit*, the whole of the proceedings shall be laid before the judge of *that court*, who, after examining them, and requiring any further evidence which he may judge necessary, shall be competent of his own authority to pass orders on the case, either confirming, modifying, or annulling the orders of the magistrate or *criminal judge*, as he may deem proper and equitable.

The security required in these cases not being given before the next sessions, the proceedings therein to be laid before the judge of *circuit*.

Fifth. In all such cases, if the judge of *circuit* shall not think it safe to direct the immediate discharge of the prisoner, he shall fix a limited period for his provisional detention, in the event of his not giving the security required from him, which period shall never exceed three years, except in the cases specified in the following section.

The judge of *circuit* how to proceed in these cases.

IX. *First.* Whenever the judge *on circuit*, from the proceedings before him in the cases referred to in Clause Fifth of the preceding section, shall consider the prisoner to be of a character so notoriously bad and dangerous as to render his release, without substantial security, evidently unsafe and improper, it shall be competent to him to order the indefinite confinement of the prisoner on default of giving the requisite security.

Order to be passed by the judge of *circuit* when the prisoner may be of a notoriously bad and dangerous character.

Second. In these cases the judge of *circuit* shall nevertheless fix the amount of the security to be required from the prisoner, and shall provide in his order that if the prisoner shall not be able to furnish the security required, within the period of three years from the date of such order, the prisoner in question shall be again brought up before the judge of *circuit*, who may hold the sessions *of gaol delivery* immediately following the expiration of the period of three years above specified, whose duty it will be, after examining the proceedings and making any further inquiries he may judge necessary, to determine whether the prisoner shall then be released, or whether he shall be again remanded, either on the same terms as before, or on any modified terms favourable to the prisoner.

The amount of security to be fixed; and if the security is not found within three years, the prisoner to be again brought up before the judge of *circuit*, who will pass such orders as he sees fit in the case.

Third. With a view to encourage respectable individuals to become sureties for prisoners of the description alluded to in the foregoing clauses of this section, the period for which the sureties are to be responsible for the good behaviour of the individuals shall be in all cases limited to three years, subject however to the condition, that the sureties at the expiration

Rules to encourage respectable individuals to become sureties in these cases.

The responsibility of sureties limited to three years, when the parties are to be surrendered.

* These clauses were specially declared applicable to Session Judges by Sec. xxxvii., Act VII., 1843.

of that period shall be bound to deliver up the individuals to the *criminal judge.*

Criminal judge, how to proceed when individuals are surrendered by their sureties in these cases.

Fourth. When an individual shall be surrendered by his sureties under the foregoing rule, the *criminal judge* shall ascertain whether the former sureties are willing again to become responsible for the future good behaviour of the prisoner for a further period, not exceeding three years; and, in the event of the sureties being willing to become again responsible for the conduct of the prisoner, the *criminal judge* shall accept the security and release the prisoner on the same terms as before.

Mode of procedure where former sureties decline to renew their engagement in these cases and the individual is unable to furnish other security.

Fifth. If the former sureties shall decline to become again responsible for the prisoner, and the prisoner shall be unable to furnish any other sufficient security, the *criminal judge* shall detain him in custody until the *ensuing sessions*, when the prisoner is again to be brought before the judge of *circuit* for such other orders as he may consider it proper to pass in the case.

Period of detention, on default of security required by the Courts *of Circuit* and Foujdarry Adawlut, limited to three years in ordinary cases.

X. *First.* Whenever a judge *on circuit*, or the Court of Foujdarry Adawlut, under the provisions of Clause Sixth, Section II., Regulation XV., 1803, may require security for the good behaviour of a prisoner, the period fixed for such prisoner's detention in custody, on failure to furnish the security required, shall not exceed three years, except in the cases specified in the following clause.

The Courts *of Circuit* and Foujdarry Adawlut competent to order the indefinite confinement of persons of notoriously bad and dangerous character on default of security.

Second. Whenever there may not be adequate proof for the prisoner's conviction of the specific offence charged, but from the evidence adduced he may appear to be of a character so notoriously bad and dangerous as to render his release without substantial security evidently unsafe and improper, the judge *on circuit* in cases before him, or the Court of Foujdarry Adawlut in trials referred to them, shall be competent to order the indefinite confinement of the prisoner on default of giving the security required.

The rules contained in the second and following clauses of Section IX. of this regulation applicable to these cases.

Third. To these cases the provisions of the second and following clauses of Section IX. of this regulation shall be applicable; but when a *judge on circuit*, by virtue of the authority vested in him by the latter part of Clause Second of that section, shall modify the terms of the security required to be taken under the orders of the Foujdarry Adawlut, he shall report the same for the information of that court.

Criminal judges competent to release persons ordered by themselves to be detained on requisition of security.

XI. *First.* The *criminal judges* are empowered to exercise their discretion in releasing, without reference to any other authority, prisoners confined under requisition of security for good behaviour, whether by their own orders or by those of any other person discharging the functions of a *criminal judge*, provided they shall, from whatever cause, be of opinion that such prisoners can be released without hazard to the community.

Criminal judges, how to proceed when in their opinion a prisoner detained on default of security required by the Courts *of Circuit* or Foujdarry Adawlut may be safely released without such security.

Second. Whenever a *criminal judge* may, for whatever reason, be of opinion that a prisoner confined under requisition of security for good behaviour by order of a *Court of Circuit*, or of the Foujdarry Adawlut, can be safely released without such security, he shall either bring the case before the *Court of Circuit at the next ensuing gaol delivery*, as prescribed by Clause First, Section XI., Regulation XV., 1803, or shall make an immediate report of the case with his opinion for the orders of the court

which may have required the prisoner to furnish security previously to his release.

XII. *First.* It is hereby declared that sureties for the peace and sureties for good behaviour shall at all times be discharged from further responsibility, on delivering up to the proper magistrate, or police officer, the persons for whom they have become responsible; and they shall not be made answerable for the amount of the security-bond in cases wherein they shall give timely information to the magistrate, that the persons for whom they have become sureties have taken to bad courses, and shall use every exertion in their power for the apprehension and surrender of such persons.

On what condition sureties may be discharged from their responsibility.

Second. Criminal judges are hereby directed to transmit to the magistrates in their respective jurisdictions lists of the persons from whom they may take security for good behaviour, whether by their own authority or under directions from the *Courts of Circuit* or Foujdarry Adawlut. The lists shall specify the names of such persons, and of their sureties, the amount of the security, and the period for which it is taken.

Criminal judges to send to the magistrates lists of persons from whom they may take security.

Third. Individuals surrendered by their sureties, or re-apprehended by the magistrate under this section, shall be immediately forwarded to the *criminal judge.*

Persons surrendered by their sureties, or re-apprehended by the magistrate, to be sent to the *criminal judge.*

XIII. *First.* Persons confined on a requisition of security for appearance under Clause First, Section III., Regulation II., 1822, or on a requisition of security for good behaviour under Sections VIII., IX., and X. of this regulation, shall be subjected at the discretion of the *criminal judge* to compulsory labour, suited in kind and degree, as well as may be, to their caste, age, strength, and other circumstances: provided always, that persons confined under Clause First, Section III., Regulation II., 1822, or under Clause First, Section VIII. of this regulation, shall be made to work separately from convicts and without irons; and that no person confined by direction of the Courts *of Circuit* and Foujdarry Adawlut shall be made to work in irons unless an order to that effect, to be issued only in the case of a bad or dangerous character, is contained in the warrant directing his detention in custody on default of security.

Persons confined on default of security to be subjected to compulsory labour.

Provisoes.

Second. Any person apprehended in a zillah different from that in which he has been accustomed to reside, and ordered to be detained in custody on a requisition of security, shall be removed to the gaol of the zillah in which his usual place of residence is situated, on his application to that effect, for the purpose of being enabled the more easily to furnish the security required.

Persons confined on default of security to be sent to the gaol of the zillah in which they usually reside.

XIV. This regulation, with the exception of Section IV., in respect of which a separate term is therein fixed, shall be in force in the territories subject to the Presidency of Fort St. George from the date of its promulgation.

This regulation when to be in force.

A.D. 1827. REGULATION VII.

A REGULATION *for constituting the Office of Native judge:** PASSED *by the Governor in Council of Fort St. George, on the* 31*st August*, 1827.

Preamble.

WHEREAS it has been deemed expedient, for the more prompt and efficient administration of justice, to establish the office of native judge, the following rules are enacted for that purpose, and for defining the powers and duties of the person holding that office.

Governor in Council empowered to establish Native Courts, to be superintended by *native judges*.

II. The Governor in Council is empowered, whenever he may deem it expedient, to establish in any part of the territories subject to this Presidency, a native court, to be superintended by a *native judge*;* and to subject to the jurisdiction of such *native judge* any part of one or more zillahs that he may deem proper.

See Acts VII, 1843, and IX, 1844.

Section II., Regulation I, 1821, applicable to *Native* Courts — Appointment of *native judges* vested in Governor in Council.

III. Section II., Regulation I., 1821, shall be applicable to the courts established under this regulation. The appointment of *native judges* shall rest with the Governor in Council.

Oath of *native judge*.

IV. Every *native judge*, previously to entering on the duties of his office, shall take and subscribe before the Governor in Council, or before any person whom the Governor in Council may commission to administer it, a similar oath to that which is directed by Section XIII., Regulation II., 1802, to be taken and subscribed by the judges of the *Zillah* Courts, or shall subscribe a solemn declaration to the same effect.

See Act XXI., 1837.

Clause Second, Section III., and other stated sections of Regulation I, 1827, applicable to the *Native* Courts and *judges*, subject to certain restrictions

V. *First.* Clause Second, Section III., and Sections IV., V., VI., VII., VIII., and IX., Regulation I., 1827, are hereby declared applicable to the native courts and judges established under this regulation, subject to the restrictions hereinafter declared; "*native* courts" being in every instance substituted for "auxiliary courts," and "*native judges*" for "*assistant* judges."

Second. [Special appeals from decisions of sudder ameens to lie to zillah judge.]—*Superseded by Act III.*, 1843.

See Notes on the sections referred to.

The *assistant* judge to transfer to the *native judge* all suits depending before him in cases stated.

Proviso.

VI. *First.* Whenever any portion of the local jurisdiction of an auxiliary court may be transferred to a *native* court, the *assistant* judge shall transfer to the *native judge* all suits depending before him, wherein the cause of action may have arisen, or the property in dispute may be situated, within the local jurisdiction so transferred; provided, however, that no suit shall be transferred to the *native judges* under this clause in which any proceeding has been held beyond the filing of the pleadings and exhibits.

See Act VII, 1843, and Order in Council of 28th July, 1843, in the Appendix.

The *assistant* judge competent to transfer suits in certain cases

Second. Whenever the local jurisdiction of an auxiliary court may be contiguous to that of a native court, in suits pending or instituted in the

* The officers here called Native Judges are, by Act XXIV., 1836, required to be designated as Principal Sudder Ameens.

auxiliary court, if the cause of action shall have arisen, or the property in dispute shall be situated, or the parties concerned shall reside, at a place contiguous to the borders of the limits of the local jurisdiction of the native court, and so far distant from the auxiliary court as to render the attendance of the parties and witnesses at the latter court inconvenient, it shall be competent to the assistant judge to transfer such suits to the *native judge;* and the *native judge* shall receive them and proceed to try and decide them in the same manner as if originally instituted in his own court.

to the *native judge* for trial.

Third. [Apportionment of pleaders' fees.]—*Rescinded by Section II., Act I.*, 1846.

VII. [Not to take cognizance of suits in which Europeans or Americans are parties.]—*Rescinded by Section V., Act VII.*, 1843. *See also Act XI.*, 1836.

VIII. It shall not be competent to a *native judge* to receive an appeal from the decision of any European officer of Government. All such appeals shall lie to the *Zillah Court only.

Native judge not competent to receive an appeal from the decision of any European officer of Government.

Modified by Sec. vii., Act VII., 1843.

IX. No *native judge* appointed under this regulation shall be competent to issue any precept to any collector, subordinate or assistant collector, or other European officer of Government. In all cases requiring the issue of such precept, the *native judge* shall transmit a brief abstract of the case to which it relates to the judge of the zillah, and shall specify what is required to be done by the collector or other European officer; and the judge of the zillah shall issue the necessary precept, and transmit an attested translation of the same and of the return thereto, in the language of the district, to the *native judge.*

Native judge not competent to issue any precept to a collector, &c., or other European officer of Government; how to proceed in such cases.

Duty of the zillah judge thereupon.

See Sec. vi., Reg. VI, 1816, and Sec. xvii., Act VII., 1843.

X. The recommendation of persons for the office of district moonsif within the jurisdiction of the *native judge* shall remain with the zillah judge.

Recommendation of persons for the office of district moonsif to remain with the zillah judge.

XI. It shall not be competent to any *native judge* to suspend or fine a district moonsif.

Native judge not competent to suspend or fine a district moonsif.

XII. It shall be the duty of a *native judge* to report to the zillah judge every instance of misconduct or neglect of duty in the district moonsifs within his jurisdiction, which may come to his knowledge.

Duty of a *native judge* in the case of improper conduct in the district moonsifs.

XIII. It shall not be necessary that any document prepared in a *native* court shall be accompanied with a translation in the English language.

English translation of any document prepared in a *native* court not required.

See Secs. xlviii and xlix., Act VII, 1843.

XIV. Collectors, subordinate or assistant collectors, shall not in any case send persons for confinement to the *native judge,* but to the zillah judge or *assistant* judge as heretofore.

Collectors in no case to send persons for confinement to the *native judge.*

* This power is reserved to the Zillah Courts by Sec. vi., Act VII., 1843.

A.D. 1827. REGULATION VIII.

A REGULATION* *for granting to Native Judges Jurisdiction in criminal Cases:* PASSED *by the Governor in Council of Fort St. George, on the* 31*st August*, 1827.

Preamble.

WHEREAS the same circumstances and considerations which have led to the establishment of the office of native judge, render it expedient also to confer upon the person holding that office, authority to take cognizance of crimes and misdemeanours committed within the limits of his jurisdiction, the Governor in Council has enacted the following rules for that purpose.

Native judges to be also *native criminal judges.*

II. *Native judges* appointed under Regulation VII., 1827, shall be also *native criminal judges.*

Oaths of *native criminal judge.*

III. Every *native criminal judge* previously to entering on the duties of his office, shall take and subscribe before the Governor in Council, or before any person whom the Governor in Council may commission to administer it, a similar oath to that which is directed by Section II., Regulation X., 1816, to be taken and subscribed by *criminal judges*, or shall subscribe a solemn declaration to the same effect. See Act XXI., 1837.

Power and jurisdiction.

IV. *Native criminal judges* shall exercise within the limits assigned to their local jurisdiction the full power and authority of *criminal judges*, and in all matters relating to the discharge of their functions shall be guided by the provisions of Regulation X., 1816, and of such other regulations as have been or may hereafter be enacted for the guidance of *criminal judges:* provided always, that *native criminal judges* shall not have jurisdiction over any European or American.

Proviso.

Europeans and Americans, how to be dealt with.

V. Europeans and Americans, against whom there is evidence of having been concerned in any crime or misdemeanour, shall be sent before the *criminal judge* or magistrate as the case may require; or security shall be taken for their appearance. See Sec. xliii., Act VII., 1843.

VI. [Magistrates not to send persons for trial, committal, or confinement to the native judge.]—*Repealed by Act XXXIV.*, 1837.

Native judge, how to act in cases of offence not bailable.

VII.† Whenever a *native judge* shall commit for trial before the *Court of Circuit* any person charged with an offence which is not bailable, he shall, after binding over the complainant and witnesses as directed by Clause Third, Section IX., Regulation X., 1816, immediately send such See Reg. IX., 1828.

* The title of Principal Sudder Ameen was substituted for that of Native Judge, as well in Civil as in Criminal jurisdiction, by Act XXIV., 1836.

† Secs. vii. to x., and Sec. xii. and Cl. 4, Sec. xiv., are modified, as regards committal for trial, by Secs. xxix. and xxx., Act VII., 1843, under which the proceedings of the Principal Sudder Ameen go direct to the Session Judge; the same sections were conditionally modified by Reg. II., 1831; but see the preliminary Note to that regulation.

person to the *criminal judge of the zillah*, together with all the proceedings held in his case, and a separate paper signed by himself in the following form.

No.	Names of the Parties.	Abstract of the Charges and Date on which they were preferred.	Date of the Apprehension of Offenders.	Name of the Prosecutor's Witnesses.	Abstract of the Examination, Grounds and Date of Commitment for Trial.	Names of Prisoners held to Bail.	Names of the Witnesses on the Part of the Prisoners.

Modified—see Note to Sec. VII

These papers shall be translated in the *Criminal Court*, as they arrive, into the English and Persian languages, and formed into a calendar to be delivered to the judge *on circuit* together with the *criminal judge's* calendar, as prescribed by Section XIX., Regulation X., 1816.

Bail bonds, &c. taken by a *native criminal judge* to stipulate the appearance of the parties at the *Criminal Court*.

VIII. All bail-bonds and recognizances taken by a *native criminal judge* under Clause Third, Section IX., Regulation X., 1816, shall stipulate the appearance of the parties at the *Criminal Court of the zillah*.

IX. [Criminal judge how to proceed with respect to persons sent or bound over to appear before him.]—*Superseded*.

See Reg. IX, 1828.

Calendars, &c. how to be forwarded and disposed of.

X. The calendars and other documents mentioned in Section XXIII., Regulation X., 1816, and Section VI., Regulation VI., 1822, and the reports and other documents prescribed in Clause Second, Section IV., Regulation II., 1822, shall be sent monthly by the *native criminal judge* to the *criminal judge of the zillah*, they shall be translated into English in the *Criminal Court of the zillah*, and laid before the judge *on circuit*, together with those of the *criminal judge*.

Documents in the *Native Criminal Judge's* Court not necessary to be recorded in the English language.

XI. It shall not be necessary that any complaint, charge, or other document whatever in the *Native Criminal Judge's* Court shall be recorded in the English language, or have a translation into any language annexed to it.

Government competent to direct prisoners committed by the *native criminal judge* to be tried either at the zillah station or at that of the *joint criminal judge*.

XII. Whenever the local jurisdiction of an auxiliary court may be contiguous to that of a *native court*, it shall be competent to the Governor in Council, by an Order in Council, to direct all prisoners committed by the *native criminal judge* to be sent for trial before the *Court of Circuit*,

either to the station of the *criminal judge* or to that of the *joint criminal judge;* and in the latter event such parts of Sections VII., VIII., IX., and X. of this regulation as refer to the *criminal judge* and the *Criminal Court of the zillah* shall be understood of the *joint criminal judge* and the Court of the *Joint Criminal Judge* respectively.

Modified — see Note to Sec. vii. and Secs. xxvi. and xxvii., Act VII., 1843.

Sentences of prisoners by a *native judge* to more than two months' imprisonment, how to be carried into execution.

XIII. All persons sentenced by a *native judge* to more than two months' imprisonment shall, in like manner, be sent by him to the gaol of the *criminal judge* or *joint criminal judge*, as the Governor in Council may direct, for their sentences to be executed, accompanied with a paper specifying the name of the prisoner, the offence proved against him, the sentence passed upon him, and the date of his being sent; and the *criminal judge* or *joint criminal judge*, as the case may be, shall cause the sentence to be executed.

See Secs. xlviii. and xlix., Act VII., 1843.

Government may authorize *native judge* to exercise the powers of magistrate.

XIV. *First.* It shall be competent to the Governor in Council, by an Order in Council, to authorize any *native criminal judge* to exercise the same powers as a magistrate may now or hereafter be empowered by any regulation to exercise, in respect of all persons sent before him by any head of police, charged with offences punishable by a magistrate; and on the publication of such Order in Council by proclamation, heads of police shall send to the *native criminal judge*, instead of to the magistrate as before, all persons (Europeans and Americans excepted) against whom there is evidence of having, within the *native criminal judge's* jurisdiction, committed or been concerned in any offence punishable by the magistrate, but to which the punishment which they are themselves empowered to inflict shall not appear to them adequate, together with the prosecutor and witnesses.

See Sec. xliii., Act VII., 1843.

Under certain restrictions.

Second. Provided always, that nothing in this section contained shall be construed to prevent the magistrate of the district from exercising the powers vested in him by the regulations when residing within the limits of the *native judge's* jurisdiction, or to authorize the *native criminal judge* to exercise any authority over the police, except in the cases specified in Regulation III., 1817.

Summons, &c. of *native criminal judge*, how to be served.

Third. Any summons or other criminal process which a *native criminal judge* acting under this section may have occasion to issue shall be served by peons of his own court; and Section XLI., Regulation IX., 1816, shall be applicable to the peons so employed.

Calendar, &c., to whom to be furnished.

Fourth. The calendar prescribed by Section XL., Regulation IX., 1816, as modified by Section VIII., Regulation IV., 1821, shall be sent monthly, together with the reports and calendars mentioned in Section X. of this regulation, to the *criminal judge* or *joint criminal judge of the zillah*, as the case may be, to be there translated into English and laid before the judge *on circuit.*

To be translated into English for the *circuit* judge.

Modified — see Note to Sec. vii.

A.D. 1827. REGULATION IX.

A REGULATION *for rescinding Regulation II.*, 1808, *with the exception of Section XI., and for declaring the general Regulations applicable to the Town and Island of Seringapatam:* PASSED *by the Governor in Council of Fort St. George, on the* 31*st August*, 1827.

WHEREAS the town and island of Seringapatam have been incorporated with the collectorate of Coimbatore and the zillah of Salem; and whereas certain of the provisions of Regulation II., 1808, are in consequence rendered unnecessary and require to be rescinded; and whereas it is expedient that the general regulations should be extended to the said town and island,—the Governor in Council has therefore enacted this regulation, to be in force from the date of its promulgation. Preamble.

II. Sections I., II., III., IV., V., VI., VII., VIII., IX., and X., Regulation II., 1808, are hereby rescinded. Sections of Regulation II., 1808, rescinded.

III. The general regulations of the Presidency of Fort St. George, with the exceptions specified in Clause Fourth, Section XI., Regulation II., 1808, shall be considered applicable to the town and island of Seringapatam. The general regulations of this Presidency, with stated exceptions, applicable to Seringapatam.

A.D. 1827. REGULATION X.

A REGULATION *for the Gradual Introduction of Trial by Jury into the Criminal Judicature of the Territories subject to the Presidency of Fort St. George:* PASSED *by the Governor in Council, on the* 11*th September*, 1827.

WHEREAS the more extended employment of the natives of India in the administration of criminal justice to their countrymen is calculated very materially to facilitate the tracing of facts from evidence, and to shorten criminal trials by dispensing with the record of much which is at present required to be reduced into writing in several languages, as well as to raise the character of the people; and whereas it has been deemed expedient, for this end, to introduce gradually into the criminal judicature of the territories subject to this Presidency the advantages of trial by jury, under such modifications as are best adapted to the local circumstances of these several provinces respectively,—the Governor in Council has there- Preamble.

fore been pleased to pass this regulation, to be in force from and after the date of its promulgation.

The Governor in Council may authorize trials by jury.

II. *First.* It shall be competent to the Governor in Council, by an order of Council, to authorize any judge of *circuit about to hold the quarterly or half-yearly gaol deliveries* to cause juries to be assembled for the trial of all criminal cases that may be brought before him.

See Note to Reg. II., 1831.

Judges authorized to try by jury may yet try by the former regulations.

Second. The judges so authorized shall have liberty to try any particular case under the regulations heretofore in force, and not by a jury, recording their reasons in the calendar, for the information of the Foujdarry Adawlut.

Qualifications of jurors.

III. All established native residents in every zillah of the Hindoo or Mahomedan persuasion, of reputed intelligence, respectability, and consideration, and between twenty-five and sixty years of age, shall be eligible to serve on juries.

Persons exempted.

IV. *First.* The following descriptions of persons are exempted from serving on juries.

Persons afflicted with diseases which confine them to their homes.

Zemindars and jagheerdars of superior rank.

Ascetics and persons who, by habit or religious vows, have relinquished the practice of going forth into public and engaging in worldly concerns.

Persons devoted to the service of religious offices, such as peers, fakeers, gooroos, and other priests.

Persons who openly and constantly practise the profession of physic.

The law officers, vakeels, and officers and servants of the courts.

The servants of the revenue department of the zillah.

All soobadars and other commissioned officers, and all other persons in the military service of Government.

The Governor in Council may declare others exempted.

Second. It shall be competent to the Governor in Council, by an order of Council, to declare any other description of persons or any individuals exempt, on a representation from any of the courts in the provinces through the Foujdarry Adawlut.

Persons qualified to be jurors to be registered.

V. Lists shall be taken periodically by the officers of Government, who shall be appointed for the purpose under the orders of the Governor in Council, of all persons within their respective jurisdictions, qualified as described in Section III., and not exempted. These lists shall be transmitted to the *criminal judge*, and formed into one general register for the whole zillah, to be kept in the Criminal Court and renewed periodically. In this register shall be entered, in a separate column, the date on which each individual was last summoned to serve on a jury.

Errors in registering, how to be appealed against.

VI. *First.* Any person who may consider himself unjustly excluded from these lists, or included when he ought to be exempted, may appeal from such exclusion or inclusion in any stage of the measures for forming the register, to the officer who formed the original list, and that officer shall receive and forward it, with his opinion thereon, to the next superior authority, who shall recommend the inclusion or exclusion of the appellant's name according to the best of his judgment.

Penalty for not re-

Second. Any native officer refusing or neglecting to receive or forward

such an appeal shall, on proof thereof before the *criminal judge*, be fined in a sum not exceeding twenty rupees. ceiving and forwarding such appeals.

Third. The *criminal judge* shall include or exclude the name according as in his judgment the appellant may or may not have established his right to be included or exempted, and the *criminal judge's* decision shall be final. Final decision thereon.

VII. *First.* When a *circuit judge* shall be authorized to hold trials by jury, he shall issue a precept to the *criminal judge* of each zillah, at least twenty days previous to the probable day of opening the sessions, therein requiring him to assemble a sufficient number of jurors. Precept to be issued by the *circuit* judge for summoning jurors.

Second. The number to be summoned shall be fixed by the *criminal judge;* it shall not be less than thirty nor more than seventy-two, unless the permission of the judge *on circuit* be first obtained. Number to be summoned.

VIII. Immediately on receipt of the *circuit* judge's precept, the *criminal judge* shall take by lot the names of the intended number of jurors; but in drawing the lots, he shall exclude the names of all persons who have been summoned to serve on a jury at any time within two years, unless the required number cannot be otherwise obtained than by including them, so that no man, except in case of necessity, shall be summoned to serve on a jury oftener than once in two years. Jurors, how to be chosen.

IX. The *criminal judge* shall issue a summons to each person whose name is drawn, so that the summons shall reach his registered place of abodē four days at least before it will be necessary for him to set out in order to reach the court by the appointed time, travelling fifteen miles each day. Summonses, how to be issued.

X. Every person on receiving a summons shall endorse, or cause to be endorsed upon it, his name and the date on which he received it, and the summons shall be returned to the *criminal judge.* Summonses, how to be received.

XI. The *criminal judge* shall have power to admit a sufficient excuse, such as sickness, death of a relation, family ceremony, &c., for non-attendance, if returned with the summons. Excuses may be admitted for non-attendance.

XII. *First.* Each juror who attends shall be entitled to receive one rupee a day for his expenses, from the day on which his attendance is required in the summons to the day on which he is discharged inclusive, and for as many days besides as his journey from home and back again may last, supposing him to travel fifteen miles a day. Allowance to the jurors who attend.

Second. The payment for the number of days allowed for his journey to the court shall be receivable on the day of the juror's arrival at the court; the allowance for each day till his discharge, daily or otherwise, according as each may apply for it; and the allowance for his return home on the day of his discharge. How to be paid.

XIII. *First.* When the sessions are opened, the names of the jurors summoned and not excused shall be called over; and every juror duly summoned who shall not answer to his name, and every juror who shall withdraw himself without the permission of the presiding judge *on circuit,* Jurors not attending, or withdrawing themselves, how to be dealt with.

shall be fined by the *criminal judge* in a sum not exceeding twenty rupees; unless he shall shew good and unavoidable cause for his non-appearance or withdrawal, to the satisfaction of the *criminal judge*.

Jurors not attending, or withdrawing through contumacy or contempt, how to be dealt with.

Second. Any juror summoned who shall appear not to have attended, or to have withdrawn, through contumacy or contempt, shall be fined in a sum not exceeding ten times the amount specified in the preceding clause.

Appeal to lie from the penalties for non-attendance or withdrawal.

Third. Any juror who has been fined under either of the two preceding clauses may appeal against such fine to the presiding judge *on circuit*, and the presiding judge shall confirm, remit, or modify the fine as he may judge right.

Jury for a trial, how to be constituted.

XIV. The jury for the trial of each prisoner shall consist of not less than eight nor more than twelve jurors, who shall be chosen by lot out of the whole number in attendance.

To answer to their names.

XV. When the appointed number is chosen, their names shall be called; and they shall answer to their names in open court, in the presence of the prisoner and prosecutor.

Challenges for cause.

XVI. The prisoner and the prosecutor shall be each allowed to challenge any number of jurors for cause shewn; the court shall judge of the sufficiency of the cause, and according to their judgment retain the jurors challenged, or choose by lot others in their room.

Peremptory challenges.

XVII. The prisoner shall be allowed five peremptory challenges.

Foreman to be chosen.

XVIII. When the jury is completed, they shall choose one of their number to be their foreman.

Oath or solemn declaration to be taken.

XIX. Each juror shall *take an oath, or* make a solemn declaration, that he will well and truly try the accused, and give a true verdict according to the evidence and his own conscience.

Rules respecting recording the evidence.

XX. It shall not be requisite to reduce any of the evidence into the Persian language. In trials not referrible to the Foujdarry Adawlut, the presiding judge may dispense altogether with written depositions; and in lieu thereof, place upon record his own notes of the evidence. In cases referrible to the Court of Foujdarry Adawlut, the evidence, for the present, shall be taken down in the current language of the district; but a discretion is hereby vested in that court to dispense therewith, and to admit in lieu thereof the notes of the presiding judge *of circuit* whenever they shall deem the same to be expedient.

Power of the jury to question witnesses.

XXI. After the examination in chief and cross-examination of each witness, every juror shall have full liberty to put to him whatever questions may be required for the satisfaction of his own mind; but the presiding judge shall have authority to prevent unfair or leading questions being put.

Rules respecting competency of witnesses.

XXII. The religious persuasion, official situation, or sex of witnesses shall be no bar to their competence. If any other question arises as to the competency of a witness, it shall be decided by the presiding judge *of*

circuit, who in cases of difficulty may refer to the Court of Foujdarry Adawlut, by whose orders he shall be guided.

Rule respecting previous examinations and confessions.

XXIII. No part of the previous proceedings held before the police officers, the magistrate, or the *criminal judge*, shall ever be made known to the jury previously to the trial. But this prohibition is not to prevent confessions of prisoners from being read in evidence, when duly proved to have been voluntarily given.

Judge's charge to the jury.

XXIV. After the conclusion of the evidence on both sides, the presiding judge *on circuit* shall make such remarks to the jury as circumstances may require, respecting the nature of the evidence, and any points of law involved in the case, avoiding all matter calculated to bias the jury.

Declaration of the verdict.

XXV. The jury shall then declare their verdict, or if they desire to consult together privately before they deliver their verdict, they shall be permitted to retire to a convenient room adjoining the court, where no person shall be allowed access to them; and they shall not be allowed to separate till they have given their verdict.

What the verdict is to specify.

XXVI. The verdict shall always specify how many of the jury concur in it and how many not; the crime of which the prisoner is convicted, and in cases of larceny, the value of the property stolen.

Mode of proceeding in case the judge disapprove of the verdict.

XXVII. Should the judge *of circuit* consider the verdict not sufficiently specific, either with reference to the value of property stolen, to any aggravation, or other peculiar circumstances charged in the indictment which, under the regulations or Mahomedan law, would affect the sentence to be pronounced; or should he deem the verdict otherwise defective, objectionable, or contrary to the evidence, he shall remand the jury to amend their verdict, first explaining his reasons for objecting to it. But if the jury persist in their verdict, it shall be conclusive, unless a new trial shall be ordered under Section XXIX.

Verdict to be recorded.

XXVIII. When the verdict is delivered, it shall be immediately recorded and read over to the jury in open court, that its correctness may be ascertained.

Mode of proceeding in case of a verdict contrary to the evidence being persisted in.

XXIX. If in any case the presiding judge *of circuit* shall be of opinion that the jury have returned a verdict contrary to the evidence, and the jury after being remanded persist in their verdict, the presiding judge shall transmit an English translation of the proceedings held, or an authenticated copy of his own notes, according as the depositions may or may not have been recorded, to the Foujdarry Adawlut; and that court shall have power, provided they concur in his opinion, to order a new trial. The verdict of the second jury shall in all cases be final.

Majority necessary for conviction.

XXX. Unless three-fourths of the jury concur in finding the prisoner guilty, the verdict shall be accounted an acquittal

Mode of proceeding

XXXI. In all cases of acquittal the prisoner shall be immediately dis-

on a verdict of acquittal.

charged, unless the presiding judge *of circuit*, under the general regulations, should deem it proper to hold him to security for good behaviour, or should be of opinion that a new trial is requisite for the ends of justice, in which case he must proceed as directed in Section XXIX.

Mode of proceeding on a verdict of conviction.

XXXII. *First.* When a verdict of guilty is recorded, the presiding judge shall either pass sentence himself, or refer or report the trial to the Foujdarry Adawlut, according to the regulations now in force, and the nature of the case. When he shall refer a trial, he shall send to the Foujdarry Adawlut an English translation of the proceedings, or with their sanction, an authenticated copy of his notes thereon. On trials so referred or reported, the Foujdarry Adawlut shall pass sentence according to the regulations now in force: provided that it shall not be competent to the Foujdarry Adawlut to remit altogether the punishment of any crime of which a prisoner has been found guilty by a jury, except in the case specified in Section XXXIV.

Powers of Foujdarry Adawlut in trials referred or reported in case of conviction contrary to evidence.

Second. If on the face of the proceedings or report the Foujdarry Adawlut shall see grounds to consider the conviction not warranted by the evidence, they shall have power to direct a new trial, the verdict in which shall be final.

Futwahs of law officers to be dispensed with.

XXXIII. It shall not be necessary for either the judge *on circuit* or the Foujdarry Adawlut to require the futwa of their law officers as to the guilt of any prisoner, that being established by the verdict of the jury.

Power of the jury to recommend to mercy, and proceedings thereon.

XXXIV. Juries after finding a prisoner guilty may recommend him to mercy, explaining their reasons for so doing; and the presiding judge, if he concurs in their recommendation, shall forward it without delay to the Foujdarry Adawlut, together with a translation in English of the proceedings held in the case, or an authenticated copy of his own notes; and the Foujdarry Adawlut shall have power to mitigate or remit altogether the punishment according as they shall judge right.

The Governor in Council to have power to pardon.

XXXV. The Governor in Council reserves to himself the power of granting a full pardon in any case whatsoever, on receiving a representation from the Foujdarry Adawlut, or from the presiding judge through that court.

Protection of jurors.

XXXVI. Jurors shall be protected in the independent and fearless exercise of their functions; any one who shall maliciously assail, threaten, or scandalize a juror because of his being concerned in any verdict, shall be subject to the penalty of a fine not exceeding 200 rupees, or imprisonment not exceeding one year, at the discretion of the *Court of Circuit.*

Penalties of corruption in jurors.

XXXVII. Jurors shall in no case, either previously or subsequently to the verdict, receive any profit or advantage on account of the verdict they may give; any juror receiving or covenanting for any reward on account of the verdict he may give, or any person attempting to corrupt or influence a juror, shall be liable to be brought before the *Court of Circuit*, either at the prosecution of such juror or of the Government, and shall be liable on conviction to imprisonment for a year, and a fine of ten times the

value or amount of the bribe offered, received, or covenanted for, to be commuted, if the fine is not paid, into imprisonment for a further period of not less than one or more than five years.

A.D. 1827. REGULATION XI.

A REGULATION *for supplying certain Omissions in Regulations I. and VII., 1827, respecting Special Appeals; and for providing for the Office of Sudder Ameen in Auxiliary Courts seated at the same Station as Provincial Courts:* PASSED *by the Governor in Council of Fort St. George, on the 13th November, 1827.*

WHEREAS it is expedient that certain omissions in Regulations I. and VII., 1827, respecting special appeals should be supplied, and that provision should be made for the office of sudder ameen in auxiliary courts seated at the same station as Provincial Courts, the Governor in Council has therefore enacted the following regulation, to be in force from the date of its promulgation. Preamble.

II. [Special appeals declared admissible in certain cases by several courts.]—*Superseded by Act III., 1843.*

III. [The law officer of the Provincial Court to be sudder ameen of the auxiliary court at the same station.]—*Superseded by Section XXIV., Act VII., 1843, which repealed the rule declaring the law officers of the Provincial Courts to be ex officio sudder ameens.*

A.D. 1828. REGULATION I.

A REGULATION *to provide for the Sentences of Native Courts Martial being carried into Execution, in certain Cases, at the Zillah Criminal and Joint Criminal Courts:* PASSED *by the Governor in Council of Fort St. George, on the 8th April, 1828, corresponding with the 28th of Panguni of the year Sarvajitu, 1750th year of Saliwahana, and with the 22nd of Ramzan, 1243 Hijra.*

WHEREAS it is enacted by the sixth article of Section XII., Regulation V., 1827, that "whenever any of the forces shall be employed out of the Company's territories, all crimes and offences which may be punishable Preamble.

by the laws and regulations of the Government of Fort St. George shall be cognizable by courts martial, and punished, according to their nature and degree, by the sentence of any such courts martial; such sentence, nevertheless, to be in conformity to the laws and regulations of the said Presidency then in force;" and whereas the sentences of courts martial, under the article and section aforesaid, will, in many instances, be such as cannot be duly and properly carried into execution at the places at which they will be passed,—therefore the Governor in Council has enacted this regulation, to be in force from the date of its promulgation.

In what cases persons sentenced by courts martial may be sent to the civil gaols to have their sentences executed.

II. Whenever any person, subject to the rules and articles contained in *Regulation V.*, 1827,* shall have been sentenced by a court martial under the *sixth article of Section XII. of that regulation*, it shall be competent to the officer commanding the troops with which such person was serving when sentenced, to send him to the nearest *Zillah Criminal or Joint Criminal* Court within the territories subject to the Presidency of Fort St. George, to have the whole or part of his sentence carried into execution.

See Arts. civ. and cliii., Act XX., 1845.

Documents to be sent with them.

III. Whenever a commanding officer shall send a convict to any Criminal or *Joint Criminal* Court, under the preceding section, he shall deliver to the person who is sent in charge of the convict a copy of the confirmed sentence of the court martial, duly certified by the proper officer, and also a paper, in duplicate, in the following form:—

Descriptive Roll of a Convict sent to the *Criminal (or Joint Criminal) Judge* of , under Regulation I., 1828.

Name and Designation or Rank of the Convict.	Name of his Native Place and of the Zillah in which it is situated.	Of what Offence convicted.	To what Punishment sentenced.	Whether any and what Part of the Sentence executed.	Date on which the Convict set out.

A. B., Officer Commanding.

Mode in which the prisoner is to be delivered to, and taken charge of, by the court.

IV. The person in charge of the convict shall, on his arrival at the court, deliver him over to the *criminal or joint criminal* judge, together with the copy of the confirmed sentence and the descriptive rolls. The judge shall receive them, whether in or out of court, and shall immediately take charge of the prisoner and cause him to be examined by the medical officer of the station, if there is one, or by the native doctor in charge of

* Regulation V., 1827, has been superseded by Act XX., 1845; Articles lxxxi. and lxxxiii. of that Act require the civil magistrates to give effect to sentences of Courts Martial. By Act VIII., 1844, the Governor in Council may order the removal of a military prisoner from one prison to another.

the gaol, who shall certify in writing to the judge in what state the prisoner has arrived, and whether he appears to have had due care taken of him on the route.

V. The judge shall deposit the copy of the confirmed sentence with the records of his court, and return the duplicate descriptive roll to the person who delivered it, having first endorsed on it, under his official signature, the date on which the prisoner was received by him, and the substance of the certificate of the medical officer or native doctor provided for in the preceding section. The original descriptive roll, endorsed in the like manner, shall be deposited with the records of the court.

Documents, how to be disposed of after the prisoner is delivered over to the civil court.

VI. The *criminal judge* shall proceed to cause the confirmed sentence of the court martial, or the part of it remaining unexecuted, to be executed according to law in the usual manner; and the provisions of the general regulations regarding prisoners shall be applicable to persons confined under this section.

Judge how to proceed respecting the prisoner.

VII. In the case of any native officer or soldier confined under the preceding section, if it shall not appear from the copy of the confirmed sentence that he has been discharged from the service, the *criminal judge* shall give notice to the adjutant-general of the army of the date on which the sentence will expire, forty days at least before that date, in order that a proper guard may be sent to take charge of the convict on his release, and reconduct him to his corps; and the convict shall on his release be delivered to the guard so sent, and the *criminal judge* shall give him a certificate of his behaviour while in gaol.

Judge how to proceed when the sentence of military convicts not dismissed from the service is about to expire.

A.D. 1828. REGULATION II.

A REGULATION *for improving the Administration of Justice by District Moonsifs, in certain respects;* PASSED *by the Governor in Council of Fort St. George, on the* 18*th April,* 1828, *corresponding with the* 8*th of Chitteri of the year Sarvadari,* 1751*st year of Saliwahana, and with the* 3*rd of Shawal,* 1243 *Hijra.*

Preamble.

WHEREAS the rule contained in Clause First, Section V., Regulation VI., 1816, that the local jurisdictions of district moonsifs shall include one or more whole tahsildaries or police jurisdictions, has been found in many instances to preclude such an arrangement of the former jurisdictions as is most for the convenience of the inhabitants and the despatch of judicial business; and whereas the abolition of the fee on suits preferred to district moonsifs for amount or value not exceeding ten rupees has not answered its intended purpose, and it is expedient to modify the fees receivable by the said moonsifs, in order that the expense of seeking

justice in their courts may be reduced, without diminishing the compensation of the moonsifs; and whereas it is further expedient to prevent collusion in references by district moonsifs to the zillah law officers,—the Governor in Council has enacted this regulation, to be in force from the date of its promulgation.

Restriction as to the local jurisdictions of district moonsifs removed.

II. So much of Clause First, Section V., Regulation VI., 1816, as prescribes that the local jurisdictions of district moonsifs shall be so arranged as to include one or more whole tahsildaries or police jurisdictions, is hereby rescinded; and it shall be competent to the *Provincial Courts** to modify the local jurisdictions of district moonsifs from time to time, with reference solely to the quantity of business, and the convenience of the inhabitants resorting to the moonsifs' courts.

III. [Reduction of institution fee in suits before district moonsifs, and compensation to those officers.]—*Rescinded by Section II., Regulation II.*, 1834.

References by district moonsifs to law officers, how to be made.

IV. All references by district moonsifs to the law officers of the Zillah Courts*, under Clause First, Section LXII., Regulation VI., 1816, shall be transmitted to [*the registers of*] the Zillah Courts; the [*registers*] shall refer the cases or questions as the zillah judges shall direct; and the answers of the law officers to whom they may be referred shall be transmitted by the [*registers*] to the district moonsifs, after submitting them to the judges.

* See Sec. xvii., Act VII., 1843, and Note to Reg. VI., 1816.

A.D. 1828. REGULATION III.

A REGULATION *for improving the Means of procuring for the Courts of Judicature correct Expositions of the Hindoo and Mahomedan Law:* PASSED *by the Governor in Council of Fort St. George, on the* 18*th April*, 1828, *corresponding with the* 8*th of Chitteri of the year Sarvadari*, 1751*st year of Salivahana, and with the* 3*rd of Shawal*, 1243 *Hijra.*

Preamble.

WHEREAS it is expedient that the Courts of Judicature should have further means of procuring correct expositions of the Hindoo and Mahomedan law; therefore the Governor in Council has enacted this regulation.

Further latitude allowed to zillah judges in obtaining opinions of law officers.

II. †In addition to the authority granted to zillah judges by Clause First, Section XVI., Regulation III., 1802, to refer cases and questions for the opinion of the law officers of the superior courts, through the judges of those courts, they are hereby declared competent to refer cases

† There are no law officers attached to the Subordinate Courts (see Sec. viii., Reg. I., 1827); this regulation applies, therefore, to the new Zillah Courts established under Act VII., 1843.

and questions, whether arising in their own courts, or in the courts of their [*registers or*] sudder ameens, or transmitted to their [*registers*] by district moonsifs, to the law officers of any other zillah or superior court, through the judge or judges of that court; and to refer the same cases or questions to the law officers of any two or more zillah or superior courts, when from any cause it may appear advisable.

A.D. 1828. REGULATION IV.

A REGULATION *for abolishing the Rules which prescribe fixed Rates of Compensation to Persons employed in translating Judicial Proceedings:* PASSED *by the Governor in Council of Fort St. George, on the* 18*th April,* 1828, *corresponding with the* 8*th of Chitteri of the year Sarvadari,* 1751*st year of Saliwahana, and with the* 3*rd of Shawal,* 1243 *Hijra.*

Preamble.

WHEREAS it is expedient that the rules which prescribe fixed rates of compensation to persons employed in translating judicial proceedings should be abolished; therefore the Governor in Council has enacted this regulation.

Rescissions of enactments prescribing rates for translations.

II. So much of Section XXXIII., Regulation IV., 1802, as fixes the rate of compensation for translation; and so much of Clause Second, Section XLI., Regulation VII., 1802, as refers to the rate of compensation established by that section, are hereby rescinded.

A.D. 1828. REGULATION V.

A REGULATION *for taking away from the Courts of Sudder and Foujdarry Adawlut the Power of suspending Judges from Office in certain Cases; and from the Board of Revenue the Power of suspending from Office, summoning to the Presidency and fining Collectors, &c. in certain Cases:* PASSED *by the Governor in Council of Fort St. George, on the* 18*th April,* 1828, *corresponding with the* 8*th of Chitteri of the year Sarvadari,* 1751*st year of Saliwahana, and with the* 3*rd of Shawal,* 1243 *Hijra.*

Preamble.

WHEREAS it is expedient that the power of suspending judges and collectors from office, and of summoning collectors to the Presidency and fining them, should be exercised only under the immediate authority of the Governor in Council; therefore this regulation is enacted, to be in force from the date of its promulgation.

Enactments rescinded.

II. So much of Section XV., Regulation IV., 1802, and Section XIII., Regulation V., 1802, as empowers the Court of Sudder Adawlut to suspend from office *zillah judges* and judges of *Provincial Courts of Appeal* under certain circumstances, and prescribes the proceedings to be held in consequence of such suspension, are hereby rescinded.

III. So much of Section XXIV., Regulation VIII., 1802, as vests in the Court of Foujdarry Adawlut the same powers of suspending from office the judges of *Provincial* and *Zillah* Courts in certain cases, as are vested in the Court of Sudder Adawlut by the enactments referred to in the last section, is hereby rescinded.

IV. Section XXXIV., Regulation I., 1803, is hereby rescinded.

A.D. 1828. REGULATION VI.

A REGULATION *to amend the Rules for computing the Periods limited for appealing, and to provide for the disposal of Pleaders' Fees deposited in Suits struck off the Files of Zillah Courts, as being for an Amount or Value not cognizable by them:* PASSED *by the Governor in Council of Fort St. George, on the* 18*th April,* 1828, *corresponding with the* 8*th of Chitteri of the year Sarvadari,* 1751*st year of Saliwahana, and with the* 3*rd of Shawal,* 1243 *Hijra.*

Preamble.

WHEREAS it is expedient to define more clearly the method of calculating the period during which appeals may be made from the decisions of the several Courts of Judicature, European and native; and to afford to parties the opportunity of becoming fully acquainted with the reasons of decrees before they determine whether they will appeal or not; whereas also it is expedient that there should be a provision for the disposal of pleaders' fees deposited by parties in suits struck off the files of Zillah Courts, as being for an amount or value not cognizable by those courts; therefore the Governor in Council has enacted this regulation, to be in force from the date of its promulgation.

Rescissions.

II. Section XXX., Regulation VII., 1809; so much of Section XXVII., Regulation III., 1802, as relates to the delivery or tender of copies of decrees; and so much of Clause Tenth, Section VIII., Regulation XV., 1816, as regards the date from which the periods limited for the admission of appeals of all kinds are to be calculated, are hereby rescinded.

Periods of appealing from decrees of the Sudder Adawlut, Provincial Courts, zillah judges and registers, how to be computed.

III. [*The respective periods for appealing from decrees of the several European courts shall, in every case, be calculated from the date on which the translation provided for by Clause Second, Section XV., Regulation XV.,* 1816, *is signed and certified; which date, and also*] the date on which the

Repealed by Sec. iii., Act XXXV., 1837

Modified by Act XXXV., 1837.

period allowed for appealing will expire, shall, in all cases, be proclaimed in open court on the same day, and certified under the signature of the register of the court, in the case of decrees passed by the Sudder Adawlut or *Provincial Courts*, and in other cases, of the judge *or register* who passed the decree, *at the end of the translation*, and in the same language, and likewise in a public register in the Persian and the language of the district, to be fixed up and remain in some public and conspicuous part of the court-house.

Periods of appealing from decrees of *native judges* and sudder ameens, how to be computed.

See Sec. iii., Act XXXV., 1837.

IV. *Native judges** and sudder ameens are hereby prohibited from giving judgment in any case before the decree is drafted; and the period limited for appealing from their decrees shall be computed from the dates on which those decrees are passed. The date on which that period will expire shall be certified at the end of the decree, under the signature of the native officer who passed it, and shall be registered and proclaimed in the same manner as is directed in respect of decrees of European courts.

V. [Amount of pleaders' fees to be awarded in cases decided under Section IV., Regulation XII., 1809.]—*Repealed by Section II., Regulation I.*, 1846.

* Substitute Principal Sudder Ameens, under Act XXIV., 1836.

A.D. 1828. REGULATION VII.

A REGULATION† *for declaring the Powers of Subordinate and Assistant Collectors in charge of particular Divisions of Districts, and for facilitating Proceedings under Regulation IX.*, 1822: PASSED *by the Governor in Council of Fort St. George, on the 18th April*, 1828, *corresponding with the 3rd of Chitteri of the year Sarvadari*, 1751*st year of Saliwahana, and with the 3rd Shawal*, 1243 *Hijra.*

Preamble.

WHEREAS the efficient discharge of the functions of collectors requires that subordinate and assistant collectors should be empowered to exercise within their divisions all the powers of the collector, but subject, nevertheless, to their revision and correction; and further, that collectors should have authority to refer for investigation, under certain restrictions, to their serishtadars and deputy serishtadars when absent from the huzzoor cutcherry, and also to their tahsildars within their respective tahsildaries, certain of the cases cognizable by themselves under Regulation IX., 1822; and also that petitions of appeal against judgments and orders passed

† All provisions of this regulation which relate to the cognizance of the offences specified in the third and fifth clauses of Sec. ii., Reg. IX., 1822, are declared by Act XXXVI., 1837, to extend to offences of the like description in respect of any other public property, and of papers relating to public property.

under the same regulation should be preferred within a limited time, and should be finally decided upon by the Board of Revenue, instead of the Governor in Council, as at present; therefore the Governor in Council has enacted this regulation, to be in force from the date of its promulgation.

Rescission.

II. Section III., Regulation III., 1823, is hereby rescinded.

Powers to be exercised ex officio by a subordinate and assistant collector in charge of a particular division of a district.

III. *First.* A subordinate or assistant collector in charge of a particular division of a district shall ex officio have authority to exercise within the division under his charge, all the powers granted to collectors by the regulations now in force, or that may be hereafter enacted, unless the contrary shall be expressly declared in any regulation.

Authority of collectors specially to delegate their powers to their subordinates and assistants.

Second. Collectors shall have authority to delegate, at their discretion, in writing under their official signature, any of the powers granted to them by any regulation now in force, or that may be hereafter enacted, to any of their subordinates or assistants not in charge of a particular division of a district; or to any of their subordinates or assistants in charge of a particular division, beyond the limits of the division under his charge.

Controlling powers of collectors.

Third. The proceedings of subordinate and assistant collectors acting under the preceding clauses shall be subject, in all cases, and in the fullest manner, to the superintendence, control, and revision of the collector, who shall have power either to direct, generally, that the proceedings of any of his subordinates or assistants shall be regularly submitted to himself before the decision, order, or sentence is carried into execution, and to confirm, modify, or annul them, or issue any further orders in the cases, as he may see fit; or in any particular case, to direct that the decision, order, or sentence of any of his subordinates or assistants shall not be carried into execution, and to pass such further orders as he may see fit.

In what cases serishtadars, deputy serishtadars, and tahsildars may be employed in investigations under Regulation IX., 1822.

IV. *First.* Collectors are empowered, at their discretion, to refer for investigation to their serishtadars and deputy serishtadars, when detached from the huzzoor cutcherry, and also to their tahsildars, within their respective tahsildaries, all cases of a petty nature cognizable by themselves under Regulation IX., 1822.

Rules for their guidance when so employed.

Second. Native officers employed under the preceding clause shall have the same powers as are granted to collectors by Clause First, Section III, Regulation IX., 1822, but witnesses shall not be examined by them on oath.

Third. If any person duly summoned by them shall not attend as required, or attending shall refuse to give evidence, or if any person whose evidence is required shall reside out of the limits of the collectorate, the native officer employed shall report the circumstance to the collector, who shall proceed thereupon in the manner required by Clauses Second and Third, Section III., Regulation IX., 1822.

Fourth. Native officers employed under this section shall take down in writing all the evidence given before them, and shall transmit their original proceedings to the collector, who shall thereupon pass sentence, or order further evidence to be taken if he deem it necessary; provided always, that collectors shall not have authority to pass sentence against a party convicted, on an inquiry by any of the native officers above mentioned, of any of the offences of the first, second, or third class specified in Clause

Restriction on collectors passing sentence in such cases.

Second, Section II., Regulation IX., 1822, adjudging him to pay a sum exceeding fifty rupees, or to impose a fine exceeding that amount upon a party convicted, on such an inquiry, of any of the offences of the fourth or fifth class specified in the same clause and section.

V. Section XIV., and Clause First, Section XV., Regulation IX., 1822, are hereby rescinded. Rescissions.

See Reg. III. 1832.

VI. *First.* Whenever a person against whom a judgment or order shall have passed under the provisions of Section V. or Section VI., Regulation IX., 1822, shall conceive himself aggrieved by such decision, he shall be at liberty, at any time within three months from the date of such judgment or order, to present to the collector a petition of appeal addressed to the Board of Revenue, which petition the collector shall forthwith forward to the Board. The petition shall be written on unstamped paper, and shall state the grounds on which the petitioner deems himself aggrieved and the redress or relief to which he considers himself entitled. Rules for appealing against decisions of collectors under Regulation IX., 1822.

Second. On receipt of such petition, the Board of Revenue, after making such inquiry as they may judge necessary, will either direct the relief prayed for by the petitioner to be granted, or will report the case for the orders of the Governor in Council, or will simply reject the petition by endorsement under the hand of their secretary, referring the party complaining to seek redress, if he thinks proper, in the established Courts of Adawlut. Board of Revenue how to proceed on future appeals.

Third. In cases reported by the Board of Revenue for the orders of the Governor in Council, in which it shall appear to the Governor in Council that further investigation is necessary, he will appoint one or more commissioners to revise the original proceedings, and will order the commission to sit at such place as may appear to be most convenient, and the provisions of Section XV., Regulation IX., 1822, shall be applicable to such commission. How the Governor in Council will proceed in cases reported by the Board of Revenue.

VII. The Board of Revenue are empowered to dispose of all appeals preferred under Section XIV., Regulation IX., 1822, which may be pending at the date of the promulgation of this regulation, according to the provisions of Clause Second of the preceding section. Board of Revenue how to proceed in appeals already before them.

A.D. 1828. REGULATION VIII.

A Regulation *for abolishing the Use of the Rattan as an Instrument of Punishment, and for substituting, in lieu thereof, the Cat-of-Nine-Tails:* Passed *by the Governor in Council of Fort St. George, on the 29th April,* 1828, *corresponding with the 19th of Chitteri of the year Sarvadari,* 1751*st year of Saliwahana, and with the 14th of Shawal,* 1243 *Hijra.*

Whereas it has been found that stripes with a rattan are a very unequal mode of punishment, varying with the size of the instrument and the Preamble.

strength of the person using it, and occasioning serious bodily injury, far beyond the intention of the law; therefore the Governor in Council has enacted this regulation, to be in force from the date of its promulgation.

Rattan abolished.

II. The use of the rattan, as an instrument of punishment, is hereby abolished.

Cat-of-nine-tails substituted.

III. Henceforward persons who, under any regulation heretofore in force, would have been sentenced to receive stripes with a rattan, shall in lieu thereof be sentenced to receive lashes with a cat-of-nine-tails.

Proportion of lashes to stripes.

IV. Five lashes with a cat-of-nine-tails shall be considered equivalent to one stroke of a rattan.

Cat-of-nine-tails, how to be supplied.

No alteration to be made in it.

V. The cat-of-nine-tails to be used shall be invariably supplied from the stores of Government, and no other cat-of-nine-tails shall be used but such as shall be so supplied; nor shall any additional knot be tied, nor any new material introduced, nor any alteration be made in any cat-of-nine-tails in use, by way of repair or on any pretence whatever; and any native officer offending herein shall be liable to be fined at the discretion of the *criminal judge* or magistrate, to whichsoever he may be subordinate.

A.D. 1828. REGULATION IX.

A REGULATION *for rescinding such parts of the existing Regulations as prescribe Forms for Periodical Reports, Calendars, Registers, or other Statements, to be furnished by the Civil or Criminal Courts, and require the same to be forwarded at Periods specified:* PASSED *by the Governor in Council of Fort St. George, on the 26th December,* 1828, *corresponding with the 4th of Margali of the year Sarvadari,* 1751*st year of Saliwahana, and with the* 18*th of Jamadi-us-sani,* 1244 *Hijra.*

Preamble.

WHEREAS the forms prescribed for several of the periodical reports, calendars, registers, and other statements required by the regulations to be forwarded by the Civil and Criminal Courts, have ceased to be of use, and require to be altered; and whereas the periods at which they have been directed to be forwarded have been found inconvenient; and whereas it is deemed expedient that such matters should not be fixed by law, but should be left open to alteration as the Court of Sudder and Foujdarry Adawlut, under the orders of the Government, may, according to circumstances, from time to time direct,—the Right Honourable the Governor in Council has therefore enacted this regulation, to be in force from the date of its promulgation.

Sections of regulations prescribing forms

II. Sections X., XI., XIII., XIV., XVI., XVII., XVIII., XIX., XX.,

XXI., XXII., and XXIII., Regulation XIII. of 1802; Sections XXXVI., XXXVII., and XXXVIII., Regulation IV. of 1806; Section XIX., Regulation V. of 1816; Section XLI., Regulation VI. of 1816; Section XXI., Regulation VII. of 1816; Section XII., Regulation VIII. of 1816; Section XXX., Regulation IX. of 1816; so much of Section XL., Regulation IX. of 1816, and of Sections XIX. and XXIII., Regulation X. of 1816, as prescribes forms for calendars; Sections XXXV., XXXVI., and XXXVII., Regulation X. of 1816; so much of Section XIV., and Clause Fourth, Section XXVII., Regulation XI. of 1816, as prescribes forms for registers and reports; Clause Third, Section XXIII., Regulation XIV. of 1816, and such other parts of the existing regulations as prescribe forms for periodical reports, calendars, registers, or other statements to be furnished by the Civil or Criminal Courts, European or native, or require the same to be forwarded at periods specified, are hereby rescinded.

for periodical reports, &c., rescinded.

III. The Court of Sudder and Foujdarry Adawlut, subject to the orders of Government, shall, from time to time, as circumstances require, prescribe the forms, and fix the periods, for the transmission of all reports, calendars, registers, or other statements, to be furnished by the Civil or Criminal Courts, European or native, under this Presidency.

Their forms and periods of transmission to be fixed by the Sudder and Foujdarry Adawlut, under the orders of Government.

A.D. 1829. REGULATION I.

A REGULATION *for amending the Rules in force relative to the Trial of Appeals, and for the better securing of Impartiality in the Administration of Justice:* PASSED *by the Governor in Council of Fort St. George, on the* 13*th January,* 1829, *corresponding with the* 2*nd of Tai of the year Sarradari,* 1751*st year of Salivahana, and with the* 7*th of Rajab,* 1244 *Hijra.*

WHEREAS it is considered just and expedient to extend to all judicial officers, European and native, the prohibition imposed by Regulation III. of 1825 upon the judges of the Court of Sudder Adawlut and of the Provincial and Zillah Courts, against trying or sitting on the trial of appeals in causes in which the previous trial has taken place before themselves: and whereas it is necessary to provide rules for the guidance of judicial officers, in disposing of suits in which they may be directly or indirectly interested,—the Right Honourable the Governor in Council has therefore been pleased to enact this regulation, which shall be in force from the date of its promulgation.

Preamble.

II. *First.* In extension of the rule contained in Clause Second, Section II., Regulation III. of 1825, it is hereby enacted, that no judicial

No judicial officer shall try an appeal from any decision passed by himself.

officer, European or native, shall try an appeal from any decision passed by himself in any situation which he may have previously held.

Judicial officers to forward such appeals to the courts to which appeals from their decisions ordinarily lie.

Second. In extension of the rules contained in Section III., Regulation III. of 1825, it is hereby enacted, that whenever an appeal may be preferred to any judicial officer, European or native, having appellate jurisdiction, from a decree passed by himself in any former capacity, or whenever such an appeal may be pending in the court to which he is appointed, at the time when he takes charge thereof, he shall forward the petition of appeal, and all the pleadings, evidence, and documents to the court to which in ordinary cases an appeal lies from his decisions; and that court shall receive and try the appeal in the same manner as other appeals which it is empowered to try.

Stamp-duties not to be affected by such removal of appeals.

Third. The removal of the appeal to the higher court, in these cases, shall nowise affect the stamp-duties, which shall be the same as if the appeal had been tried by the court to which it was first preferred.

No judge of the Sudder Adawlut, or of any *Provincial Court of Appeal*, shall sit on trial or sign a decree in any case in which he may be personally interested.

III. *First.* No judge of the Court of Sudder Adawlut, or of any *Provincial Court of Appeal*, shall sit on the trial of any cause in which he may be directly or indirectly a party, or may be otherwise personally interested; neither shall he sign a decree passed in such a cause by the court of which he is a judge.

All other judicial officers to proceed according to Clause Second, Section II., in suits in which they may be personally interested.

Second. Every *zillah judge, assistant* judge, [*or register,*] and every *native judge*, or district moonsif, shall proceed as directed in Clause Second of the preceding section, whenever a suit in which he may be directly or indirectly a party, or may be otherwise personally interested, shall be instituted before him, or depending in his court when he takes charge thereof.

See further provision in Sec. XII., Act VII., 1843.

Every *register*, sudder ameen, or district moonsif, to proceed according to Clause Second, Section II., when suits in which they may be personally interested are referred to them.

Third. Every [*register,*] sudder ameen, or district moonsif, shall proceed as directed in Clause Second of the preceding section, whenever a suit in which he may be directly or indirectly a party, or may be otherwise personally interested, shall be referred to him by the zillah judge, or shall be depending in his court, when he takes charge thereof.

See Act IX., 1844.

Stamp-duties not to be affected by the removal of the suits alluded to in this section.

Fourth. The removal of the suits alluded to in this section to a superior court, shall nowise affect the stamp-duties, which shall be the same as if the suit had been decided by the lower tribunal.

A.D. 1829. REGULATION II.

A REGULATION *for rescinding Regulation XI. of* 1809, *and for providing for the Trial of serious Offences committed by Native Subjects of the British Government, in Places out of the Limits of the British Territories:* PASSED *by the Governor in Council of Fort St. George, on the* 30*th January,* 1829, *corresponding with the* 19*th of Tai of the year Sarvadari,* 1751*st year of Salivahana, and with the* 24*th of Rajab,* 1244 *Hijra.*

Preamble.

WHEREAS doubts have arisen as to whether the functions assigned to magistrates by Regulation XI. of 1809 ought to be exercised by the

zillah judges who were then the sole magistrates, or by the collectors, to whom the powers of the magistracy have since been transferred; and whereas the provisions of that law consequently require to be modified with reference to the present system of police and magistracy,—the Governor in Council has therefore enacted this regulation, which shall be in force from and after its promulgation.

II. Regulation XI. of 1809 is hereby rescinded.

Regulation XI., 1809, rescinded.

See Reg XII, 1832

III. *First.* Whenever a native subject of the British Government shall be charged with murder, or homicide of any sort, robbery, house-breaking, arson, rape, or other great personal violence, counterfeiting the coin of the British Government, violent affrays, or any other serious offence committed in any place out of the British provinces, and shall be found, or having been apprehended elsewhere, shall be brought within the British territory, the magistrate or any native head of district or village police within whose jurisdiction he may be found or brought, shall proceed respecting him in the manner prescribed in the following clause.

Serious offences committed by native subjects of the British Government in foreign territories cognizable by the British officers.

Second. If such accused person shall be brought in the first instance before the magistrate, he shall make such inquiry into the charge as the circumstances of the case and the evidence attainable may admit of. Should the result of such inquiry induce the magistrate to believe the charge groundless, or the accused innocent thereof, he shall dismiss the complaint, and release the accused; but if he consider the charge well founded against the accused, he shall report his proceedings to the Governor in Council, committing the accused to safe custody, or holding him to bail, according as the nature of the charge may require. In case of bail, the form of the bail bond shall be, to appear before the magistrate on a certain day assigned (leaving time for the receipt of the orders of Government), and on such subsequent days as the magistrate shall require. In cases of commitment to safe custody, the form of the warrant shall be until the orders of Government are received.

Proceedings to be held by the magistrate

Third. If such accused person shall be brought in the first instance before a native head of village or district police, he shall in all cases be forwarded, by the latter, to the magistrate, instead of to the *criminal judge* as directed by Clause Fourth, Section XXVII., Regulation XI. of 1816, together with the witnesses and the proceedings held. The magistrate shall then proceed as directed in the preceding clause.

And by the native police.

IV. In cases referred to Government under the preceding section, as well as in all cases of the like nature which may in any manner come before the Governor in Council, if it appear proper that the accused person should be brought to trial for the offence imputed to him, the Governor in Council shall be competent to direct that the accused person be brought to trial before any of the established Courts of Criminal Judicature within the British provinces which he may be pleased to appoint; and the special order of the Governor in Council for the purpose shall be deemed full and sufficient authority for the trial and punishment of such accused person, by the court so appointed, as well as by the Court of Foujdarry Adawlut, if the case be referrible to them, under the general regulations in force.

Government can direct the accused to be tried by any of the established Criminal Courts.

Proceedings and sentences of such courts.

V. Whenever a native subject of the British Government shall be brought to trial before any of the established Courts of Criminal Judicature under the provisions of this regulation, the trial shall be conducted, and sentence thereupon passed, and carried into execution, under the general regulations in force, in like manner as if the offence had been committed within the British territories, and the case subject to the ordinary jurisdiction of those courts.

A.D. 1829. REGULATION III.

A REGULATION *for establishing further Rules and Articles for the better Government of the Native Officers and Soldiers in the Service of the East-India Company under the Presidency of Fort St. George:* PASSED *by the Governor in Council of Fort St. George, on the* 13*th of March,* 1829.

[Superseded by Articles 98 and 153, Act XX., 1845.]

A.D. 1829. REGULATION IV.

A REGULATION *for annulling the Sunnuds-i-Milkeut Istimrar issued for the Zemindaries of Nozeed and Ellore, in the Zillah of Masulipatam, and for empowering the Government to issue new Sunnuds for the same:* PASSED *by the Governor in Council of Fort St. George, on the* 23*rd June,* 1829.

[Rescinded by Act XII., 1835.]

A.D. 1829. REGULATION V.

A REGULATION *for modifying Section XVI., Regulation III.,* 1802, *and for declaring the Legal Force of Wills left by Hindoos within the Territories subject to the Presidency of Fort St. George, to be dependent on their conformity to the Hindoo Law, according to the Authorities prevalent in the respective Provinces under this Government:* PASSED *by the Governor in Council of Fort St. George, on the* 25*th August,* 1829, *corresponding with the* 11*th of Avani of the year Virodi,* 1751*st year of Saliwahana, and with the* 24*th of Safar,* 1245 *Hijra.*

Preamble.

WHEREAS Clause First, Section XVI., Regulation III., 1802, directs that "in suits regarding succession, inheritance, marriage, and caste, and

all religious usages and institutions, the Mahomedan laws with respect to Mahomedans, and the Hindoo laws with regard to Hindoos, are to be considered as the general rules by which the judges are to form their decisions;" and whereas, although wills are instruments unknown, and have been made so as to be totally repugnant, to the Hindoo law according to the authorities prevalent within the several provinces of this Government, yet Clause Second of the said section directs that, on the death of a Hindoo leaving a will, his executors "are to take charge of the estate of the deceased and proceed in the execution of their trust according to the will of the deceased and the laws and usages of the country;" and whereas this last enactment is at variance both with the Hindoo law, according to the authorities prevalent within these territories, and with the above-quoted obligation imposed on the courts to administer justice to the natives in the said matters according to their own laws, and it is therefore expedient that the same should be modified,—the Governor in Council has therefore enacted this regulation, to be in force from the date of its promulgation.

Rescission.

II. Clause Second, Section XVI., Regulation III., 1802, so far as it applies to Hindoos, is hereby rescinded.

Rules respecting estates of Hindoos dying intestate applicable to those of Hindoos dying and leaving wills.

III. The rules contained in Clauses Third, Fourth, Fifth, Sixth, and Seventh, Section XVI., Regulation III., 1802, respecting the estates of Hindoos dying intestate, are hereby declared equally applicable to the cases of Hindoos dying and leaving wills.

Wills of Hindoos to have no legal force whatever, except they be in conformity to the Hindoo law.

IV. Wills left by Hindoos within the territories subject to this Government shall have no legal force whatever, except so far as their contents may be in conformity with the provisions of the Hindoo law, according to the authorities prevalent in the respective provinces under this Presidency.

A.D. 1829. REGULATION VI.

A REGULATION *for modifying the Enactments contained in Section VIII., Regulation I.*, 1825: PASSED *by the Governor in Council of Fort St. George, on the* 29*th August*, 1829, *corresponding with the* 15*th of Avani of the year Virodi*, 1751*st year of Saliwahana, and with the* 28*th of Safar*, 1245 *Hijra.*

Preamble.

WHEREAS Section VIII., Regulation I., 1825, requires the judges of circuit to refer for the sentence of the Court of Foujdarry Adawlut every trial in which the conviction of the prisoner depends exclusively or principally upon the evidence of witnesses objected to by the Mahomedan law officer; and whereas the intention of that enactment will be maintained, and the administration of justice greatly accelerated, by enabling the

judges of circuit to pass sentence, without reference to the Court of Foujdarry Adawlut, on persons convicted of crimes by law punishable by them, in which the objection taken to the evidence by the law officer consists exclusively of certain personal exceptions to the deponents, and is not founded on the insufficiency of the testimony given by them, or on other grounds separate and distinct from such personal exceptions,—the Right Honourable the Governor in Council has therefore been pleased to pass this regulation, to be in force from the date of its promulgation.

Section VIII., Regulation I., 1825, modified. If the objections of the law officer consist of certain specified personal exceptions to the witnesses, the trial need not be referred in cases punishable by the *Court of Circuit*.

II. *First.* In modification of Section VIII., Regulation I., 1825, it is hereby enacted, that it shall be competent to a judge of *circuit* to pass sentence, without reference to the Court of Foujdarry Adawlut, on all persons convicted before him of any crime by law punishable by a judge of *circuit*, notwithstanding any objection taken to the deponents by the law officer, provided such objection consists of any of the following personal exceptions to the witnesses or prosecutors:—1st. That they are officers of police, or in the service of Government, or the persons who took the prisoner into custody. 2ndly. That they are persons not of the Mahomedan persuasion. 3rdly. That they are prosecutors, or stand in the situation of prosecutors, from having been injured by the prisoner. 4thly. That they are women. 5thly. That they are near relations of the prosecutor. 6thly. That they are masters, servants, or slaves of the prosecutor.

If otherwise, the trial must be referred as heretofore.

Second. But if the law officer objects to the conviction of the prisoner on the ground of the insufficiency to conviction of the testimony itself, or on any other ground separate and distinct from the personal exceptions specified in Clause First, the trial shall be referred to the Court of Foujdarry Adawlut, as heretofore.

A.D. 1829. REGULATION VII.

A REGULATION *for rescinding Clauses Second and Third, Section IV., Regulation V.*, 1821, *and providing for the Enforcement of the Cowles granted to Custom Renters:* PASSED *by the Governor in Council of Fort St. George, on the 27th November*, 1829.

[Superseded by the abolition of inland duties under Act VI., 1844.]

A.D. 1829. REGULATION VIII.

A REGULATION *for the Punishment of the fraudulent Appropriation, or the unlawful and malicious Obliteration or Destruction of Judicial Records, and for defining the Course of Proceeding to be observed in bringing to Trial Persons charged with Perjury or Subornation of Perjury, before certain Tribunals:* PASSED *by the Governor in Council of Fort St. George, on the* 18*th December,* 1829, *corresponding with the* 6*th of Margali of the year Virodi,* 1751*st year of Saliwahana, and with the* 21*st of Jamadi-us-sani,* 1245 *Hijra.*

Preamble.

WHEREAS the public records of the Courts of Civil or Criminal Judicature, though intrinsically of little value, are of great importance to individuals; and it is necessary, for the ends of justice, to provide a specific punishment for the fraudulent appropriation, or the unlawful and malicious obliteration or destruction of the same; and whereas doubts have arisen as to the legal steps to be taken to bring to trial persons charged with perjury, or subornation of perjury, when committed before magistrates, joint or assistant magistrates, collectors, and subordinate or assistant collectors, or before registers, native judges, sudder ameens, district or village moonsifs, and district or village punchayets, and it is necessary to remove such doubts; and whereas in certain cases, the preliminary investigation of such crimes by the magistracy would often involve an unnecessary and inconvenient circuity of proceeding,—the Right Honourable the Governor in Council has therefore been pleased to enact this regulation, to have effect from and after the date of its promulgation.

The stealing, obliterating, injuring, or destroying of judicial records, punishable by seven years' imprisonment and 100 lashes.

II. *First.* If any person shall steal, or shall, for any fraudulent purpose, take from its place of deposit for the time being, or from any person having lawful custody thereof, or shall unlawfully and maliciously obliterate, injure, or destroy any record, pleading, decree, precept, return, process, deposition, or other original document whatever, of or belonging to any European or native tribunal of Civil or Criminal Jurisdiction under this Presidency, every such person shall be liable to trial for the same before the *Court of Circuit*, and being convicted thereof, shall be liable to be imprisoned, with hard labour, in irons, for a period not exceeding seven years, and to lashes with a cat-of-nine-tails not exceeding one hundred.

Section VIII., Regulation X., 1816, modified as regards such charges.

Second. In modification of Section VIII., Regulation X., 1816, the *criminal judge* or *joint criminal judge*, without the intervention of the magistracy, shall have primary cognizance of all such charges, whether the same are brought forward by individuals, or by the European or native officers superintending the said courts.

Course of proceeding in cases of perjury, or subornation of perjury, before collectors, magistrates, sub-collectors, joint magistrates, as-

See Sec. v., Reg. II., 1831, Act XXIII., 1837, and Sec. xxix., Act VII., 1843.

III. *First.* In further modification of the provisions contained in Section VIII., Regulation X., 1816, it is hereby enacted, that in all cases wherein any person giving evidence *on oath, or* under a solemn declaration, before a magistrate or collector, a joint or assistant magistrate, or a subor-

sistant collectors or magistrates, *registers*, *native judges*, sudder ameens, moonsifs, or punchayets. Section VIII., Regulation X., 1816, modified as regards such charges.

dinate or assistant collector, or before a [*register*,] *native judge*, sudder ameen, district or village moonsif, or district or village punchayet, may be considered by the tribunal before which such evidence is given, to be guilty of wilful perjury, or subornation of perjury, as defined by law, the accused shall be forwarded, with the proceedings on which the charge is founded, to the *criminal judge*, by the tribunal before which the said proceedings may have been held, with the sentiments of that tribunal on the case; and the *criminal judge* shall dispose of the same under the general regulations.

The Government vakeel to prosecute in such cases.

Second. In the event of committing such cases for trial before the *Court of Circuit*, the *criminal judge* shall appoint the vakeel of Government to conduct the prosecution before that court.

But no prosecution to be had in such cases except the tribunal before which the crime is committed shall suggest the same.

Third. The restrictions contained in Section XXIX., Regulation IX., 1816, against the prosecution for perjury, or subornation of perjury, of witnesses or parties in the Civil Courts, and in Section VIII., Regulation II., 1822, against that of witnesses or prosecutors in the Criminal Courts, unless the officers presiding in those courts respectively shall be of opinion that grounds exist for such prosecutions, are hereby extended to all charges of perjury and subornation of perjury against witnesses or parties, or against witnesses or prosecutors, as the case may be, before any of the public officers or tribunals referred to in Clause First, unless such officers or tribunals shall be of opinion that grounds exist for such prosecution.

See Sec. v., Reg. II., 1831.

A.D. 1830. REGULATION I.

[Framed upon Regulation XVII., 1829, of the Bengal Code.]

A Regulation *for declaring the Practice of Suttee, or of burning or burying alive the Widows of Hindoos, illegal, and punishable by the Criminal Courts:* Passed *by the Governor in Council of Fort St. George, on the 2nd February,* 1830, *corresponding with the 22nd of Tai of the year Virodi,* 1751*st year of Saliwahana, and with the 7th of Shaban,* 1245 *Hijra.*

Preamble.

The practice of suttee, or of burning or burying alive the widows of Hindoos, is revolting to the feelings of human nature; it is nowhere enjoined by the religion of the Hindoos as an imperative duty; on the contrary, a life of purity and retirement on the part of the widow is more especially and preferably inculcated, and by a vast majority of that people throughout India the practice is not kept up nor observed; in some extensive districts it does not exist; in those in which it has been most frequent, it is notorious that in many instances acts of atrocity have been perpetrated which have been shocking to the Hindoos themselves, and in their eyes unlawful and wicked. The measures hitherto adopted to discourage and prevent such acts have failed of success, and the Governor in

Council is deeply impressed with the conviction, that the abuses in question cannot be effectually put an end to without abolishing the practice altogether. Actuated by these considerations, the Governor in Council, without intending to depart from one of the first and most important principles of the system of British government in India, that all classes of the people be secure in the observance of their religious usages, so long as that system can be adhered to without violation of the paramount dictates of justice and humanity, has deemed it right to establish the following rules, which are hereby enacted, to be in force from the time of their promulgation throughout the territories immediately subject to the Presidency of Fort St. George.

II. The practice of suttee, or of burning or burying alive the widows of Hindoos, is hereby declared illegal, and punishable by the Criminal Courts.

The practice of suttee, or of burning or burying alive the widows of Hindoos, declared illegal and punishable by the Criminal Courts.

III. *First.* All zemindars, talookdars, or other proprietors of land, whether malguzary or lakheraj; all sudder farmers and under-renters of land of every description, all dependent talookdars, all naibs and other local agents, all native officers employed in the collection of the revenue and rents of lands on the part of Government, or the Court of Wards, and all head men of villages, are hereby declared especially accountable for the immediate communication to the officers of the nearest police station of any intended sacrifice of the nature described in the foregoing section; and any zemindar, or other description of persons above noticed, to whom such responsibility is declared to attach, who may be convicted of wilfully neglecting or delaying to furnish the information above required, shall be liable to be fined by the magistrate or joint magistrate in any sum not exceeding 200 rupees, and in default of payment, to be confined for any period of imprisonment not exceeding six months.

All zemindars, talookdars, &c. held responsible for the immediate communication to the officers of the nearest police station of any intended sacrifice.

Penalty in case of neglect.

Second. Immediately on receiving intelligence that the sacrifice declared illegal by this regulation is likely to occur, the head of police shall either repair in person to the spot, or depute one of his subordinate officers, accompanied by one or more peons of the Hindoo religion, and it shall be the duty of the police officers to announce to the persons assembled for the performance of the ceremony, that it is illegal, and to endeavour to prevail on them to disperse, explaining to them that, in the event of their persisting in it, they will involve themselves in a crime, and become subject to punishment by the criminal courts. Should the parties assembled proceed, in defiance of these remonstrances, to carry the ceremony into effect, it shall be the duty of the police officers to use all lawful means in their power to prevent the sacrifice from taking place, and to apprehend the principal persons aiding and abetting in the performance of it; and in the event of being unable to apprehend them, they shall endeavour to ascertain their names and places of abode, and shall immediately communicate the whole of the particulars to the magistrate or joint magistrate for his orders.

Heads of police, how to act on receiving the intelligence of the intended sacrifice.

Third. Should intelligence of a sacrifice, declared illegal by this regulation, not reach the police officers until after it shall have actually taken place, or should the sacrifice have been carried into effect before their arrival at the spot, they will nevertheless institute a full inquiry into the

How to act when the intelligence of a sacrifice may not reach them until after it shall have actually taken place.

circumstances of the case, in like manner as on all other occasions of unnatural death, and report them for the information and orders of the magistrate or joint magistrate to whom they may be subordinate.

The magistrate or joint magistrate of the jurisdiction in which the sacrifice may take place, how to proceed against the parties concerned in promoting it.

IV. *First.* On the receipt of the reports required to be made by the heads of police, under the provisions of the foregoing section, the magistrate or joint magistrate of the jurisdiction in which the sacrifice may have taken place, shall inquire into the circumstances of the case, and shall adopt the necessary measures for bringing the parties concerned in promoting it to trial before the *Court of Circuit.*

Persons convicted of aiding and abetting in the sacrifice of a Hindoo widow, shall be deemed guilty of culpable homicide, and liable to punishment.

Second. It is hereby declared, that after the promulgation of this regulation, all persons convicted of aiding and abetting in the sacrifice of a Hindoo widow, by burning or burying her alive, whether the sacrifice be voluntary on her part or not, shall be deemed guilty of culpable homicide, and shall be liable to punishment by fine or by imprisonment, or by both fine and imprisonment, at the discretion of the *Court of Circuit*, according to the nature and circumstances of the case, and the degree of guilt established against the offender; nor shall it be held to be any plea of justification that he or she was desired by the party sacrificed to assist in putting her to death.

Persons committed to take their trial before the *Court of Circuit* shall be admitted to bail, or not, at the discretion of the *criminal judge.*

Third. Persons committed to take their trial before the *Court of Circuit* for the offence above mentioned, shall be admitted to bail or not at the discretion of the *criminal judge*, subject to the general rules in force in regard to the admission of bail.

The Court of Foujdarry Adawlut not precluded from passing sentence of death in certain cases.

V. It is further deemed necessary to declare, that nothing contained in this regulation shall be construed to preclude the Court of Foujdarry Adawlut from passing sentence of death on persons convicted of using violence or compulsion, or of having assisted in burning or burying alive a Hindoo woman while labouring under a state of intoxication or stupefaction, or other cause impeding the exercise of her free will, when, from the aggravated nature of the offence proved against the prisoner, the court may see no circumstance to render him or her a proper object of mercy.

A.D. 1830. REGULATION II.

A REGULATION *for abolishing the Use of the Corah as an Instrument of Punishment, and substituting in lieu thereof the Cat-of-Nine-Tails:* PASSED *by the Governor in Council of Fort St. George, on the* 23*rd February,* 1830, *corresponding with the* 14*th of Masi of the year Virodi,* 1751*st year of Saliwahana, and with the* 28*th of Shaban,* 1245 *Hijra.*

Preamble.

WHEREAS by Clause First, Section III., Regulation VI., 1811, "thirty stripes with a corah" forms part of the sentence which a judge of circuit is authorized to pass on persons convicted of perjury, subornation of per-

jury, or forgery; and whereas it is desirable that one uniform instrument of punishment should be used by the criminal tribunals for inflicting stripes in all cases throughout the territories under the Presidency of Fort St. George,—the Right Honourable the Governor in Council has therefore enacted this regulation, to be in force from the date of its promulgation.

II. So much of Clause First, Section III., Regulation VI., 1811, as relates to the infliction of stripes with a corah, is hereby rescinded. The use of the corah and any other instrument, except the cat-of-nine-tails, as an instrument of punishment, is abolished. Persons who, under the provisions of the said clause, or of any other clause or section of any regulation enacted by the Government of Fort St. George, would have been sentenced to receive stripes with a corah shall, in lieu thereof, be sentenced to receive lashes with the cat-of-nine-tails described in Regulation VIII., 1828, five lashes with such cat-of-nine-tails being considered equivalent to one stripe with a corah.

Such part of Clause First, Section III., Regulation VI., 1811, as regards stripes with the corah, rescinded, its use abolished, and five stripes with a cat-of-nine-tails substituted for one with a corah.

A.D. 1830. REGULATION III.

A REGULATION *for removing Doubts as to the Validity of certain Sales of Land on account of Arrears of Revenue; for rescinding Section LVIII., Regulation I.,* 1803; *and for vesting the Board of Revenue with a Discretionary Authority in regard to the Time to be fixed for the Sale of Lands on account of Arrears of Revenue:* PASSED *by the Governor in Council of Fort St. George, on the* 20*th April,* 1830, *corresponding with the* 10*th of Chitteri of the year Vikruti,* 1752*nd year of Saliwahana, and with the* 26*th of Shawal,* 1245 *Hijra.*

WHEREAS it is prescribed by Section LVIII., Regulation I., 1803, that "where estates or portions of an estate may be reported to be attached in satisfaction for an arrear of revenue by a court of justice, the Board of Revenue shall direct the collector to notify that such estates or portions of estates will be sold at the end of the then current Fusly year, unless the arrears and all demands on the estate shall be satisfied previously to that time; but the Board of Revenue shall authorize (if considered to be expedient, and with the permission of the Governor in Council) the sale of estates previously to that period of time;" and whereas it has been doubted whether, under the above provision, the Board of Revenue is competent, with the permission of the Governor in Council, to authorize the sale of estates for arrears of revenue before the expiration of the Fusly year in which such arrears became due, unless such estates are "attached in satisfaction of decrees for an arrear of revenue by a court of justice;" whereas it is expedient to remove such doubt and to declare that, with certain exceptions, all sales of land for arrears of revenue which have taken place since the enactment of Regulation I., 1803, under the authority of the Board of Revenue, with the permission of the Governor in Council,

Preamble.

before the expiration of the Fusly year in which the arrears became due, or in which the lands were attached, are valid; and whereas it is also expedient to rescind Section LVIII., Regulation I., 1803, and to vest in the Board of Revenue a discretionary power to order, without a previous reference to the Governor in Council, a public sale of lands attached on account of arrears of revenue to take place at any time,—the Governor in Council has therefore enacted this regulation.

Construction to be given to Section LVIII., Regulation I., 1803.

Sales of land before the expiration of the Fusly valid under certain authority.

II. *First.* It is hereby declared that the authority vested in the Board of Revenue by the concluding part of Section LVIII., Regulation I., 1803, was not intended to be limited to the sale of estates reported to be attached in satisfaction of decrees for an arrear of revenue by a court of justice; and all sales of land for arrears of revenue which have taken place since the enactment of Regulation I., 1803, under the authority of the Board of Revenue, with the permission of the Governor in Council, before the expiration of the Fusly year in which the arrears became due, or in which the lands were attached, are hereby declared to be good and valid, so far as respects the competency of the order under which such sales were made before the expiration of the Fusly year.

But decrees of court already passed not to be affected.

Second. Provided, however, that nothing contained in the preceding clause shall be construed to give validity to any such sale of land which may have been declared null and void by the decree of a court of justice on the ground that the order for the sale was not authorized under the provisions of Section LVIII., Regulation I., 1803.

Section LVIII., Regulation I., 1803, rescinded.

III. Section LVIII., Regulation I., 1803, is hereby rescinded.

Board of Revenue to fix the period for the sale of lands for arrears of revenue.

IV. *First.* It shall be competent to the Board of Revenue to determine, without a previous reference to the Governor in Council, the period at which the sale of any lands attached for arrears of revenue shall take place; the time and place of sale being in every instance duly notified, pursuant to the provisions of Section XI., Regulation XXVI., 1802.

But lands attached in satisfaction of decrees to be sold without delay.

Second. On receiving the report prescribed by Section XX., Regulation II., 1803, of the attachment of lands in satisfaction of a decree of a Court of Judicature, the Board of Revenue shall immediately issue the requisite instructions to the collector, and shall cause the sale of such lands to take place with as little delay as possible, subject to the provisions of Sections XI. and XIV., Regulation XXVI., 1802.

A.D. 1830. REGULATION IV

A REGULATION *for suspending the Provisions of Regulation IV*, 1829: PASSED *by the Governor in Council of Fort St. George, on the 8th June*, 1830.

[Rescinded by Act XII., 1835.]

A.D. 1831. REGULATION I.

A REGULATION *for granting to Josiah Marshall Heath, Esquire, the exclusive Privilege of erecting and using Iron-works on the European Plan within the Presidency of Fort St. George, until the End of the Term for which the Possession and Government of the British Territories in India are granted to the East-India Company by the Statute of* 53 *Geo.* 3, *c.* 155: PASSED *by the Right Honourable the Governor in Council of Fort St. George, on the* 21*st January*, 1831.

[This regulation expired with the Statute of 53 Geo. III., cap. 155, on the 30th April, 1834.]

A.D. 1831. REGULATION II.

A REGULATION* *for modifying the Provisions contained in Regulation VIII.*, 1827, *which require that Persons committed for Trial before the Court of Circuit by a Native Criminal Judge, shall be sent to the Criminal Judge or the Joint Criminal Judge of the Zillah, in order to their being tried by the Court of Circuit:* PASSED *by the Right Honourable the Governor in Council of Fort St. George, on the* 25*th March*, 1831, *corresponding with the* 14*th of Panguni of the year Vicruti*, 1753*rd year of Saliwahana, and with the* 10*th of Shawal*, 1246, *Hijra.*

Preamble.

WHEREAS the extent of local jurisdiction which it has been resolved to assign to certain native judges, with the view of securing all the advantages contemplated by these appointments, renders it necessary that provision should be made for the delivery of the gaols of native criminal judges at the stations of the native courts, the Right Honourable the Governor in Council has enacted the following regulation, to be in force from the date of its promulgation.

Gaols of *native judges* may be delivered at the stations of those courts.

II. From and after the date of the promulgation of this regulation, it shall be competent to the Governor in Council, by an Order in Council, to direct that the gaols of any of the *native criminal judges* shall be delivered at the stations of the native courts.

* The provisions of this regulation are virtually superseded by Act VII., 1843, of which Sections xxix. and xxx. provide that the Subordinate Judges acting under Regs. II. and VIII., 1827, shall commit prisoners for trial before the Session Judge, who shall commence the trial immediately. Secs. xlviii. and xlix. of the same Act recognize only one gaol to be delivered, and that at the station of the new Zillah Court.

Modification of certain sections of Regulation VIII., 1827.

III. In modification of the provisions contained in Sections VII., VIII., IX., X., XI., and XII., Regulation VIII., 1827, it is hereby enacted, that the *native criminal judges*, at the stations of whose courts the session of gaol delivery may be held by the *Court of Circuit*, under the orders of the Governor in Council described in Section II. of this regulation, shall proceed in conformity with the provisions enacted for the guidance of *criminal judges* in Sections IX., X., XI., XII., XIII., XIV., XV., XVI., XVII., XVIII., XIX., XX., XXI., XXII., and XXIII., Regulation X., 1816; Section VI., Regulation VI., 1822; Section II. and Clause Second, Section IV., Regulation II., 1822.

Provisions of the regulations for the guidance of the *Court of Circuit* holding a gaol delivery to be applicable to gaol deliveries at native courts.

IV. The provisions of the regulations at present in force for the guidance of the *Court of Circuit*, holding a sessions of gaol delivery at the zillah station, are hereby declared to be applicable to the *judges of circuit* holding such sessions at the station of the *native* courts under the provisions of this regulation; the *native criminal judge* being in each instance substituted for the *criminal judge*.

Modification of Section III., Regulation VIII., 1829.

See Act XXIII., 1837.

V. In modification of the provisions contained in Section III., Regulation VIII., 1829, it is hereby enacted, that the *native judges* and *native criminal judges* at the stations of whose courts the sessions of gaol delivery may be held under the provisions of this regulation, shall commit for trial before the *Court of Circuit* persons considered by them to be guilty of wilful perjury, or subornation of perjury.

A.D. 1831. REGULATION III.

A REGULATION *to provide for the more effectual Administration of Justice in certain Cases:* PASSED *by the Right Honourable the Governor in Council of Fort St. George, on the 22nd April,* 1831, *corresponding with the* 11*th of Chitteri of the year Carah,* 1754*th year of Saliwahana, and with the* 9*th of Zilkada,* 1246 *Hijra.*

Preamble.

WHEREAS instances have occurred of persons assembling in large bodies for the purpose of effecting illegal and rebellious designs, and refusing to disperse when required to do so by the local authorities; and whereas it has been deemed expedient to provide more effectually for the punishment of such acts, the following rules have been enacted, to be in force from the date of their promulgation.

Magistrates may order unlawful assemblies to disperse.

II. From and after the date of the promulgation of this regulation, if any number of persons should assemble together in a manner indicating an intention to commit an unlawful act, or inconsistent with public tranquillity, it shall be competent to the magistrate to order them to disperse, and to punish those who may not comply with such order with fine not

exceeding fifty rupees, or imprisonment, without labour, not exceeding one month.

III. Persons, twelve or more in number, assembling for riotous or rebellious purposes, or for the purpose of interfering with or obstructing the collection of the revenue, and refusing to disperse when called upon to do so by the local authorities, or re-assembling after having dispersed, shall be liable to be tried by the *Court of Circuit*, and on conviction shall be sentenced to imprisonment for a period not less than three nor exceeding ten years.

Persons riotously assembling to be tried by the *Court of Circuit.*

IV. Any persons who shall address threats to the established Government, or threats to any of its agents or of the officers under it, for the purpose of procuring alteration of the law or rendering it nugatory, or shall institute or join any conspiracy, ratified by any sort of bond, oath, or agreement between individuals to execute the said measures, shall be liable to be tried before the *Court of Circuit*, and shall, on conviction, be sentenced to imprisonment for a period not less than three nor more than ten years.

Persons threatening the officers of Government to be tried by the *Court of Circuit.*

V. From and after the date of the promulgation of this regulation, any ryot refusing to attend at the annual settlement of revenue when summoned by the collector or the tahsildar for that purpose, shall be liable for the first offence to a fine not exceeding fifty rupees or one month's imprisonment, at the option of the collector, and for the second offence to a fine not exceeding 200 rupees or three months' imprisonment; and upon the repetition of the offence, to be imprisoned by order of the collector for any period not exceeding one year.

Ryots refusing to attend at the annual settlement of revenue liable to imprisonment.

A.D. 1831. REGULATION IV.

A REGULATION *for better securing to the Grantees personal or hereditary Grants of Money or of Land Revenue, conferred by the Government in consideration of Services rendered to the State, or in lieu of resumed Offices or Privileges, or of Zemindaries or Pollams forfeited or held under Attachment or Management by the Officers of Government, or as Yeomiahs or Pensions:* PASSED *by the Right Honourable the Governor in Council of Fort St. George, on the 6th May,* 1831, *corresponding with the 25th of Chitteri of the year Carah,* 1754*th year of Saliwahana, and with the* 23*rd of Zilkada,* 1246 *Hijra.*

WHEREAS it is just and expedient that personal or hereditary grants of money or of land revenue, conferred by the Government in consideration of services rendered to the State, or in lieu of resumed offices or privileges, or of zemindaries or pollams forfeited or held under attachment or

Preamble.

management by the officers of Government, or as yeomiahs or charitable allowances, or as pensions, should be strictly applied to the purpose for which they have been granted, and should not be liable to be diverted from that purpose to the use or benefit of persons who have no claim upon the State, the Right Honourable the Governor in Council has therefore enacted the following rules, to be in force from the date of their promulgation.

Claims to certain grants of money or of land revenue not cognizable by the courts, except under an express order of Government.

II. *First.* The Courts of Adawlut are hereby prohibited from taking cognizance of any claim to hereditary or personal grants of money or of land revenue, however denominated, conferred by the authority of the Governor in Council* in consideration of services rendered to the State, or in lieu of resumed offices or privileges, or of zemindaries or pollams forfeited or held under attachment or management by the officers of Government, or as a yeomiah or charitable allowance, or as a pension, and also of any claim for the recovery or continuation of, or participation in, such grants, whether preferred against private individuals or public officers, unless the plaint is accompanied by an order signed by the chief or other secretary to Government, referring the complaining party to seek redress in the established Courts of Adawlut.

Power to decide on such claims vested in Government.

Second. The power to decide on such claims is reserved exclusively to the Governor in Council, after due investigation by such persons and in such manner as he may deem fit.

Such grants not liable to attachment by the courts, *except for personal debts or obligations of the holders.*

III. The grants referred to in the preceding section shall not be liable to attachment or sequestration, in satisfaction of any decree or order of court, [*save and except for the discharge of debts or other obligations personally incurred by the holders of them.*]

Rescinded by Act XXIII., 1838.

Decrees already passed not affected by this regulation.

IV. Decrees of the Courts of Adawlut already passed, shall not in any respect be affected by the provisions of this regulation.

A.D. 1831. REGULATION V.

A Regulation *to modify and amend the Provisions in force for the Recovery of the Penalties prescribed for certain Breaches of the Salt, Tobacco, and Stamp Laws:* Passed *by the Right Honourable the Governor in Council of Fort St. George, on the* 24*th May,* 1831, *corresponding with the* 12*th of Vyasi of the year Carah,* 1754*th year of Saliwahana, and with the* 11*th of Zilhijja,* 1246 *Hijra.*

Preamble.

Whereas under the regulations at present in force the penalties for certain breaches of the salt, tobacco, and stamp laws established in the pro-

* Extended, by Act XXXI., 1836, to grants made by Native Governments confirmed or continued by the British Government.

vinces subject to the Presidency of Fort St. George, are recoverable only by civil actions; and whereas great inconveniences have arisen from the course of proceeding necessary in such cases; and whereas to obviate such inconveniences and to facilitate the recovery of the penalties above referred to, it has been deemed advisable to modify and amend the provisions which require that such penalties shall be sued for in the Courts of Adawlut,—the following regulation has been enacted, to be in force from and after the date of its promulgation.

Such parts of Regulation I., 1805, Regulation II., 1807, and Regulations VII. and VIII., 1811, as regard enforcement of the penalties for breach of the salt and tobacco laws by civil process, repealed, and the same now recoverable criminally.

II. Such parts of Regulation I., 1805, of Regulation II., 1807, and of Regulations VII. and VIII., 1811, as require that the penalties prescribed for certain breaches of the salt and tobacco laws shall be sued for in the Courts of Adawlut, are hereby repealed; and every such penalty shall be recoverable by a criminal prosecution* under the rules contained in the following sections.

Magistrate, for a breach of the prohibition in Clause First, Section VIII., Regulation I., 1805, to summon the accused.

III. *First.* Whenever a magistrate shall receive information of a breach of the prohibition contained in Clause First, Section VIII., Regulation I., 1805, and shall see no cause to distrust the truth of the information, he shall issue a summons under his official seal and signature, to be served by any police officer, calling upon the person accused to appear either in person or by vakeel, to answer to the charge on or before a certain day to be specified in the summons.

But if he does not appear in person or by vakeel, may arrest him.

If he cannot be found, how to proceed.

Second. If the accused shall not appear before the magistrate in person or by vakeel, according to the exigence of the summons served upon him, the magistrate shall issue a warrant for his apprehension; and if he shall abscond or conceal himself so that he cannot be found, the magistrate shall proceed as directed in the several clauses of Section XVII., Regulation IX., 1816.

On his appearance, to hold him to bail to answer the charge at the Criminal Court.

Third. On the appearance of the accused in person or by vakeel, the magistrate shall enter into an investigation of the charge, and if upon the evidence it shall appear to him that the charge is well founded, he shall require the accused to give bail to an amount not exceeding the sum of 400 rupees, for his appearance in person or by vakeel, to answer the charge before the Criminal Court, on or before a day to be specified in the bail-bond, and if the bail required be given, the witnesses shall be bound over to attend the Criminal Court on the day specified; but if the required bail be not given, the accused shall be taken into custody, and sent, with the witnesses and all the proceedings held in the case, to the Criminal Court.

And bind over the witnesses to attend.

If bail is not given, to forward the accused, &c. to the Criminal Court.

The foregoing rules applicable to proprietors, farmers, or renters of land, or managers of estates charged with the offence stated in Section XIII., Regulation I., 1805, and to certain cases referred to in Section III., Regulation II., 1807,

Fourth. The rules contained in the foregoing clauses are hereby declared to be applicable to all cases in which proprietors, farmers, or renters of land, or managers of estates, shall be charged with the offence described in Section XIII., Regulation I., 1805, and to all cases in which a proprietor, landholder, farmer, or renter of land, or any manager of an estate in Malabar or Canara, shall be charged with the offence specified in Section III., Regulation II., 1807, which is hereby declared applicable to

* By Act XVII., 1840, all penalties for petty breaches of the salt laws are recoverable before magistrates, without reference to the Criminal Courts. The collectorate of Madras is exempted from the Magistrate's and the Criminal Court of Chingleput by Act XXII., 1837.

which is extended to farmers and renters of land.

farmers or renters of land, or managers of estates, in common with proprietors and landholders.

Native officers of police not to take cognizance of the foregoing charges.

Fifth. Tahsildars and other inferior officers of police are hereby prohibited from taking cognizance of any of the offences before referred to, if committed by the parties specified in the preceding clauses, the primary cognizance of such offences being exclusively confined to the magistrates and their assistants.

Regarding other breaches of the salt and tobacco laws, the magistracy and police to proceed as in cases punishable by the Criminal Court.

Sixth. On receiving information of any other breach of the salt-laws, or of any breach of the tobacco-laws, the magistrate and the subordinate officers of police shall proceed against the person or persons accused, in the same manner as against persons charged with offences, the punishment of which rests with the Criminal Court.

Criminal Courts, how to proceed in cases brought before them under the foregoing section in levying the penalty.

IV. *First.* The Criminal Courts, in the trial of charges brought before them under the preceding section, shall proceed as directed in Clause Sixth, Section II., Regulation VI., 1822; and on conviction, shall sentence the offender to pay the penalty specifically prescribed for the offence; or in other cases, such penalty as may appear just and proper; provided, however, that when the penalty to be adjudged is not by the regulations specifically defined or limited in its amount, it shall in no case exceed the sum of 200 rupees. If the offender shall omit or refuse to pay the fine, the Criminal Court shall sentence him to imprisonment in the gaol for debtors, or in the criminal gaol, according to the character and situation in life of the offender, until the fine be paid; provided, however, that such imprisonment shall in no case exceed the term of two years.

On non-payment, the offender to be imprisoned not more than two years.

Collector to cause the Government vakeel to prosecute such cases.

Second. All prosecutions before the *criminal judge* under this regulation shall be conducted by the vakeel of Government, to whom the collector shall in each case furnish such instructions as may appear necessary.

If persons admitted to bail, under Section III., to appear before the Criminal Court, do not appear, the court to decide ex parte and to levy the penalty

V. *First.* If a person who has given the bail required by Clause Third, Section III. of this Regulation, shall fail to appear in person or by vakeel, before the Criminal Court on the day specified in the bail-bond, the charge shall be tried ex parte; and if the charge be established by the evidence, the Criminal Court shall forthwith issue its warrant for levying the fine adjudged, on default of the immediate payment of which the offender shall be taken into custody and imprisoned as directed in the preceding section.

And to enforce payment of the sureties by the securities.

Second. In the cases provided for in the preceding clause, it shall be the duty of the Criminal Court, whether the accused be convicted or acquitted, to declare the security given by the accused to be forfeited; and the Criminal Court shall forthwith proceed in the ordinary manner to levy the amount from the sureties.

Foujdarry and Circuit Courts to revise such proceedings.

VI. All proceedings held by the Criminal Courts under this regulation shall be subject to revision by the *Courts of Circuit*, and by the Court of Foujdarry Adawlut; and those courts are hereby empowered and directed to call for the proceedings in any case in which, upon the petition of a party considering himself aggrieved, or upon other information before them, such revision may appear requisite for the ends of justice.

Clause Second, Section XXIX., Regula-

VII. *First.* Clause Second, Section XXIX., Regulation XIII., 1816,

is hereby rescinded, and the fine prescribed by Clause First of that section shall be recoverable under the following rules.

tion XIII., 1816, rescinded. The fine in Clause First recoverable.

Second. Whenever a petition, pleading, or other document, which may not have been written on the prescribed stamp, shall be filed in any court of justice or in the office of any collector or other public officer, or whenever it shall appear that a copy of any paper or proceeding shall have been furnished on paper not bearing the prescribed stamp, the judge or judges of the court, the collector or other public officer, shall call upon the ministerial officer by whom such petition or other document was filed, or by whom such copy shall have been furnished, to shew cause why the prescribed fine should not be imposed upon him; and on his failure to shew good cause, shall forthwith proceed in the ordinary manner to levy from him the penalty prescribed; [*provided, however, that the levy of such penalty by the sudder ameens shall be subject to the restrictions contained in the latter part of Section XIV., Regulation VIII.*, 1816.]

By courts, collectors, or public officers, from their ministerial officers.

See Sec. xxix., Reg. XIII., 1816.

Superseded by Sec. xxv., Act VII., 1843.

But sudder ameens subject to the restrictions contained in Section XIV., Regulation VIII., 1816.

VIII. Nothing contained in the foregoing sections shall be construed to apply to penalties incurred by acts committed previously to the promulgation of this regulation, but such penalties shall be recoverable, as heretofore, by civil actions; and in respect to them the provisions repealed by Section II. of this regulation shall still continue in force.

This regulation not to extend to acts previous to its promulgation.

A.D. 1831. REGULATION VI.

A REGULATION *to prevent the Misappropriation of the Emoluments annexed by the State to hereditary Village and other Offices in the Revenue and Police Departments, and to maintain the due Efficiency of those Offices:* PASSED *by the Right Honourable the Governor in Council of Fort St. George, on the 3rd June,* 1831, *corresponding with the 22nd of Vyasi of the year Carah,* 1754*th year of Saliwahana, and with the* 21*st of Zilhijja,* 1246 *Hijra.*

WHEREAS certain emoluments derived from lands, from fees in money or grain, and from other sources, have been annexed by the State to various hereditary village and other offices in the revenue and police departments, as wages for the performance of public services; and whereas, to provide for the due performance of such services, it is necessary that the emoluments above mentioned should in no case be separated from the offices to which they have been annexed by the State; and whereas effectually to prevent the appropriation of such emoluments to purposes other than those for which they were originally designed, it is requisite to declare that all such emoluments are inalienable by mortgage, sale, gift, or otherwise; to provide that no claim to such offices, or to any of the emoluments annexed thereto, shall be cognizable by the ordinary courts of judicature; and to render all such claims adjudicable exclusively by the

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officers of Government in the revenue department; and whereas, in order to maintain the due efficiency of the offices before mentioned, it is necessary that the holders thereof should be more immediately subject to the authority and control of the collectors of revenue,—this regulation has been enacted, to be in force from and after the date of its promulgation.

All emoluments annexed by the state to hereditary village and other offices in the revenue and police departments inalienable, not liable to attachment by the courts, and their transfer null.

II. It is hereby declared that all emoluments derived from lands, from fees in money or grain, or from other sources, which have been annexed by the State to hereditary village and other offices in the revenue and police departments, are inalienable from such offices by mortgage, sale, gift, or otherwise; that all transfers which may hereafter be made thereof by the holders of such offices shall be null and void; and that such emoluments shall not be liable to attachment or other process in satisfaction of decrees of court.

Claims to such offices not cognizable by the courts.

III. *First.* Claims to the possession of, or succession to, hereditary village or other offices in the revenue and police departments, or to the enjoyment of any of the emoluments annexed thereto, shall not be cognizable by the ordinary courts of judicature; and all suits respecting such offices or emoluments, which may be depending in those courts at the receipt of this Regulation, shall be forthwith struck off the file.

Parties in existing suits respecting such claims to obtain a refund of all costs.

Second. Provided, however, that the parties in the suits which may be struck off the file of the several courts, under the preceding clause, shall be entitled to and shall receive back the amount of all charges incurred by them respectively in the prosecution of such suits; and the presiding officers of those courts are hereby authorized and directed to refund to the parties aforesaid all charges so incurred.

Such claims adjudicable by the collector.

IV. *First.* All claims which have arisen and have not been determined by the ordinary courts of judicature, or which may hereafter arise to the possession of, or succession to, hereditary village or other offices in the revenue and police departments, or to the enjoyment of any of the emoluments annexed to such offices, shall in the first instance be adjudicable by the collector of the district in which the claim has arisen or may arise.

The collector may require any native of his district to aid him as an assessor under penalty of fifty rupees fine.

Second. It shall be competent to the collector to require the attendance of any of the resident native inhabitants of his district, to aid him as assessors in investigating and determining the claims brought before him under the preceding clause; and every person neglecting or refusing to attend when called upon for this purpose, shall be liable, at the discretion of the collector, to a fine not exceeding fifty rupees, the payment of which shall be enforced, if necessary, by the ordinary process of distraint for arrears of revenue.

May refer claims to the native assessors.

Third. It shall be competent to collectors at their discretion to refer the claims brought before them under Clause First of this section to the native assessors for investigation.

Attendance of witnesses, how to be obtained.

Fourth. It shall be competent to collectors to require and enforce the attendance of all witnesses whose evidence may be necessary in the investigation of claims under the foregoing clauses, and for this purpose, the collectors shall have the same powers as are vested in the *zillah* judges by Section VII., Regulation III., 1802, the general provisions of which

section, so far as they may appear applicable, shall be observed by the collectors in all investigations held by them under this regulation.

Fifth. Any witness examined by the collectors or by the native assessors under this regulation, who shall be guilty of a wilful and corrupt breach of his *oath*, shall be liable to prosecution for perjury, and on conviction before the *Court of Circuit*, shall be subject to the penalties prescribed for perjury committed before the ordinary courts of judicature.

Witnesses in such cases liable to the penalties for perjury.

V. *First.* From every decision passed by the collectors on claims brought before them under Clause First, and from every order of the collectors imposing a fine under Clause Second of the preceding section, an appeal shall lie to the Board of Revenue, provided such appeal be made within three months from and after the date of the collector's decision or order.

An appeal to lie to the Board of Revenue, if preferred within three months, from the decisions and fines of a collector.

Second. It shall however be competent to the Board of Revenue, whenever they may see fit, to admit an appeal preferred after the time limited in the foregoing clause.

Board of Revenue may admit appeals after that time.

VI. The decisions or orders of the Board of Revenue on all appeals made to them under the preceding section shall be final and conclusive; provided, however, that it shall be competent to the Governor in Council to revise and modify such orders and decisions, whenever he may deem it necessary for the ends of justice.

Decisions of the Board final, subject to revision by Government.

VII. Sections XIX. and XX., Regulation XI., 1816, are hereby rescinded; and village watchers, as well as all other persons who hold or may hereafter hold hereditary village or other offices in the revenue and police departments, to which emoluments have been annexed by the State, shall be under the immediate authority and control of the collectors of the districts in which such offices are established, and shall be liable to suspension or removal from office for incapacity, neglect of duty, or other just cause, by the orders of the collectors, subject in every instance to the approval of the Board of Revenue, and to the sanction of the Governor in Council in all cases in which he may see fit to interfere.

Sections XIX. and XX., Regulation XI., 1816, rescinded; and all persons holding hereditary village or other offices in the revenue or police departments, placed under collectors and liable to removal by them, subject to the orders of the board and Government.

VIII. Nothing contained in this regulation shall be construed to affect in any way the office of kurnum established by Regulation XXIX., 1802, in districts of which the land revenue has been permanently fixed, or to be anywise applicable to the public institutions referred to in Regulation VII., 1817, or to the trustees, managers, or superintendents of those institutions.

The office of kurnum in permanently settled districts not affected by this regulation, nor the institutions referred to in Regulation VII., 1817.

A.D. 1831. REGULATION VII.

A REGULATION *for rescinding the existing Regulation of the* 31*st December,* 1817, *relating to the Conduct of the Trade between the British Possessions in India and the Countries and States in amity with His Majesty, and for making other Provisions in lieu thereof:* PASSED *by the Right Honourable the Governor in Council of Fort St. George, on the* 3*rd June,* 1831, *corresponding with the* 22*nd of Vyasi of the year Carah,* 1754*th year of Saliwahana, and with the* 21*st of Zilhijja,* 1246 *Hijra.*

Preamble.

WHEREAS by a regulation passed by the Court of Directors of the United Company of Merchants of England trading to the East Indies, on the 31st of December, 1817, entitled "A Regulation for carrying on the Trade between the British Possessions in India and the Countries and States in amity with His Majesty;" reciting that "by an Act passed in the 37th year of the reign of His late Majesty King George the Third, entitled 'An Act for regulating the Trade to be carried on with the British Possessions in India by the Ships of Nations in amity with His Majesty,'" it was "enacted that, from and after the passing of that Act, and during the continuance of the exclusive trade of the United Company of Merchants of England trading to the East Indies, and during the term for which the possessions of the British territories in India is secured to the said United Company, it should be lawful for the ships and vessels of countries and states in amity with His Majesty, to import into and export from the British possessions in India, such goods and commodities as they should be permitted to import into and export from the said possessions by the directors of the said Company, who were thereby directed to frame such regulations for carrying on the trade to and from the said possessions, and the countries and states in amity with His Majesty, as should seem to them most conducive to the interest and prosperity of the said British possessions in India, and of the British empire, and that no ship or vessel belonging to any of the subjects of states or countries in amity with His Majesty should be liable to seizure, confiscation, or forfeiture, or other penalty for exporting from, or importing into, the said British possessions in India, any goods or commodities, the importation or exportation of which should respectively be permitted by the said regulation, any thing in a certain Act of the twelfth year of the reign of King Charles the Second, therein recited, to the contrary notwithstanding; provided always, that it should not be lawful for the directors of the said United Company to frame any regulations for the conduct of the said trade which should be inconsistent with any treaty or treaties which should have been, or might be, entered into by His Majesty, his heirs and successors, and any country or state at amity with His Majesty, or which might be inconsistent with any Act or Acts of Parliament which had been passed for the regulation of the trade and commerce of the said British territories in India;" and reciting that "by another Act passed in the 53rd year of the reign of his said late Majesty, entitled 'An Act for continuing in the East-India Company for a further term the possession of the British Territories in India, together

with certain exclusive Privileges for establishing further regulations for the Government of the said Territories, and the better Administration of Justice within the same; and for regulating the Trade to and from the Places within the Limits of the said Company's Charter,'" "all the enactments, provisions, matters, and things contained in any Act or Acts whatsoever which were limited, or might be construed to be limited, to continue for and during the term granted to the said Company by a certain Act of Parliament of Great Britain of the 33rd year of his said late Majesty, therein recited, so far as the same or any of them were in force and not repealed by, or repugnant to, the said Act of the 53rd year of his said late Majesty, should continue and be in force during the further term thereby granted to the said Company, subject to such alterations therein as might be made by any of the enactments, provisions, matters, and things in that Act contained;" certain rules were framed for carrying on the trade to and from the British possessions in India and the countries and states in amity with his Majesty: And whereas it has been deemed expedient that the distinction made by the last-mentioned regulation between foreign European ships belonging to nations having settlements in the East Indies, and foreign European ships belonging to countries having no such settlements, should be removed, and that the provisions thereby made for the trade of foreign European ships belonging to nations having settlements of their own in the East Indies should be extended to foreign European ships belonging to nations having no settlements in the East Indies, and also to ships belonging to the empire of Brazil,—the Court of Directors of the said United Company, in virtue of the powers granted to them by the Acts hereinbefore mentioned or referred to, have rescinded the said regulation of the 31st of December, 1817, and in lieu thereof have framed the following regulation.

Regulation rescinded.

II. Foreign European ships belonging to any state or country, whether having a settlement of its own in the Indies or not, and ships belonging to the empire of Brazil, so long as such states, countries, and empire respectively remain in amity with His Majesty, may freely enter the British seaports and harbours in the East Indies, whether they come directly from their own country or from any of the ports and places in the East Indies; they shall be hospitably received, and shall have liberty to trade there in imports and exports, conformably to the regulations established in such places: provided, that it shall not be lawful for the said ships, in time of war between the British Government and any state or power whatever, to export from the said British territories, without the special permission of the British Government, any military stores or naval stores, saltpetre, or grain. The said ships may also be cleared out for any port or place in the East Indies; but if cleared out for Europe, or for any port in the empire of Brazil, they shall be cleared out direct for the country to which such ships respectively belong.

All ships of foreign European nations and of the empire of Brazil to be hospitably received and to be allowed to trade in all British ports and places in the East Indies, and to be cleared out for any port or place in the East Indies, or direct for the country to which they belong.

III. The trade between the British possessions in India and the United States of America shall continue to be regulated by the Convention of Commerce between Great Britain and the United States of America, signed at London the 3rd July, 1815.

The trade between India and the United States of America to continue to be regulated by the convention signed at London the 3rd July, 1815.

The duties of the trade of foreign nations not to be in any way affected by this regulation.

IV. Nothing in this regulation shall be construed to affect the provisions contained in the existing regulations for defining the duties to which the trade of foreign nations is and shall be subject at the ports and settlements of the British nation in the East Indies.*

NOTE.—*The following extract from the Convention of Commerce, referred to in Section III., formed the Appendix to the regulation of the* 31*st December*, 1817, *printed as Regulation VI.*, 1819, *and rescinded by this regulation.*

Article III. of a Convention of Commerce between Great Britain and America.

Article III. of a Convention of Commerce between Great Britain and the United States of America, signed at London, 3rd July, 1815.

"His Britannic Majesty agrees that the vessels of the United States of America shall be admitted and hospitably received at the principal settlements of the British dominions in the East Indies, viz. Calcutta, Madras, Bombay, and Prince of Wales' Island, and that the citizens of the said United States may freely carry on trade between the said principal settlements and the said United States in all articles of which the importation and exportation respectively, to and from the said territories, shall not be entirely prohibited; provided only, that it shall not be lawful for them, in any time of war between the British Government and any state or power whatever, to export from the said territories, without the special permission of the British Government, any military stores or naval stores or rice. The citizens of the United States shall pay for their vessels, when admitted, no higher or other duty or charge than shall be payable on the vessels of the most favoured European nations, and they shall pay no higher or other duties or charges on the importation or exportation of the cargoes of the said vessels than shall be payable on the same articles when imported or exported in the vessels of the most favoured European nations.

"But it is expressly agreed that the vessels of the United States shall not carry any articles from the said principal settlements to any port or place except to some port or place in the United States of America, where the same shall be unladen.

"It is also understood that the permission granted by this article is not to extend to allow the vessels of the United States to carry on any part of the coasting trade of the said British territories; but the vessels of the United States having in the first instance proceeded to one of the said principal settlements of the British dominions in the East Indies, and then going with their original cargoes, or any part thereof, from one of the said principal settlements to another, shall not be considered as carrying on the coasting trade. The vessels of the United States may also touch for refreshments, but not for commerce, in the course of their voyage to or from the British territories in India, or to or from the dominions of the Emperor of China, at the Cape of Good Hope, the island of St. Helena, or such other places as may be in the possession of Great Britain in the African or Indian seas; it being well understood, that in all that regards this article, the citizens of the United States shall be subject, in all respects, to the laws and regulations of the British Government from time to time established."

* For duties on the trade of foreign nations by sea, see Schedules A and B, Act VI., 1844.

A.D. 1831. REGULATION VIII.

A REGULATION *for vesting in Single Judges of the Courts of Sudder and Foujdarry Adawlut, and in Single Judges of the Provincial Courts of Appeal, under certain Restrictions, the Power now exercised by Two or more Judges of those Courts respectively:* PASSED *by the Right Honourable the Governor in Council of Fort St. George, on the* 2nd *August,* 1831, *corresponding with the* 19*th of Adi of the year Carah,* 1754*th year of Saliwahana, and with the* 22*nd of Shawal,* 1247 *Hijra.*

Preamble.

WHEREAS by the regulations now in force two judges of a Provincial Court of Appeal, and of the Court of Sudder and Foujdarry Adawlut, are required to form a court competent to the decision of any original cause or appeal, and it is provided that no decree or final order of those courts shall be valid unless passed by two judges present in court; and whereas it is requisite, in order to expedite the decision of civil causes, and of criminal trials before the Foujdarry Adawlut, that the powers at present vested in two or more judges of the Sudder and Foujdarry Adawlut, and of the Provincial Courts of Appeal, should, under certain restrictions, be exercised by single judges of those courts respectively,—the following regulation has therefore been enacted, to be in force from the date of its promulgation.

II. III. [Powers of a single judge of the Provincial Court.]—*Superseded by the abolition of Provincial Courts under Act VII.*, 1843.

Powers of two judges of the Sudder Adawlut vested in a single judge, under certain restrictions.

Modified by Sec. x., Act VII., 1843.

IV. *First.* From and after the date of the promulgation of this regulation, it shall be competent to a single judge of the Court of Sudder Adawlut to exercise all the powers at present vested in two or more judges of that court, under the restrictions contained in the remaining clauses of this section.

Such single judge may not alter an order passed by one or more judges.

Second. It shall not be competent to such single judge to reverse or alter any order or decision which may have been passed by one or more judges of the court.

Or an order passed by a subordinate court.

Third. It shall not be competent to such single judge to reverse or alter any order or decision of a subordinate court.

Powers of two judges of the Foujdarry Adawlut vested in a single judge, under certain restrictions.

V. *First.* From and after the date of the promulgation of this regulation, it shall be competent to a single judge of the Court of Foujdarry Adawlut to exercise all the powers at present vested in two or more judges of that court, under the restrictions contained in the remaining clauses of this section.

Modified by Secs. xxxiii. and xxxiv., Act VII., 1843.

Such single judge may not dispose of capital cases.

Second. In trials referred to the Court of Foujdarry Adawlut which may include one or more prisoners liable to a sentence of death, it shall not be competent to such single judge to pass sentence.

May not pass sentence in referred trials if he do not concur with the judge of circuit.

Third. In other trials referred to the Court of Foujdarry Adawlut, it shall not be competent to such single judge, if he do not concur with the judge of *circuit* as to the conviction of a prisoner, to pass sentence.

May not alter an order passed by one or more judges.

Fourth. It shall not be competent to such single judge to reverse or alter any order or sentence which may have been passed by one or more judges of the court of Foujdarry Adawlut.

May not dispose of any reference respecting a criminal trial if he do not concur with the judge of *circuit*.

Fifth. It shall not be competent to such single judge to dispose of any reference made by a judge of *circuit* respecting a trial held by him, if he do not concur in the opinion submitted thereupon by the judge of *circuit*.

A.D. 1831. REGULATION IX.

A REGULATION* *for authorizing the Governor in Council, at his discretion, to extend the Provisions of Regulation III.,* 1820, *mutatis mutandis, by an Order in Council, to any of the Principal Towns in the Territories subject to the Presidency of Fort St. George to which it may be deemed expedient to apply them:* PASSED *by the Right Honourable the Governor in Council of Fort St. George, on the* 16*th August,* 1831, *corresponding with the* 2*nd of Avani of the year Carah,* 1754*th year of Saliwahana, and with the* 7*th of Rabi-ul-awal,* 1247 *Hijra.*

Preamble.

IT appearing, from representations which have been made to the Government, that the smuggling of tobacco at the principal towns in the territories subject to the Presidency of Fort St. George, prevails to an extent greatly injurious to the public revenue, and the extension of the provisions of Regulation III., 1820, mutatis mutandis, to such towns, being considered calculated to remedy the evil, the Right Honourable the Governor in Council has been pleased to enact the following regulation, to be in force from the date of its promulgation.

The Governor in Council empowered, at his discretion, to extend the provisions of Regulation III., 1820, mutatis mutandis, to any of the principal towns in the territories under the Presidency of Fort St. George.

II. From and after the date of the promulgation of this regulation, it shall be competent to the Governor in Council, by an order in council, to extend the provisions of Regulation III., 1820, mutatis mutandis, to any of the principal towns in the territories subject to the Presidency of Fort St. George, to which it may be deemed expedient to apply them.

* The provisions of this regulation may be rendered applicable to Ganjah and Bhang. See Act XIV., 1838

A.D. 1831. REGULATION X.

A REGULATION *to prohibit the Sale of Estates belonging to Minors, not under the Charge of the Court of Wards, and to extend the Provisions of Section XX., Regulation V.*, 1804, *to Property of every Description not subject to the Jurisdiction of that Court:* PASSED *by the Right Honourable the Governor in Council of Fort St. George, on the 2nd September*, 1831, *corresponding with the 19th of Avani of the year Carah*, 1754*th year of Saliwahana, and with the 24th of Rabi-ul-awal*, 1247 *Hijra.*

WHEREAS doubts have been entertained as to the liability of the estate of a minor, not taken under the management of the Court of Wards, to be sold for arrears of revenue; and whereas it is considered expedient, for the due protection of the property of minors and other incapacitated persons, that the provisions of Section XX., Regulation V., 1804, should be extended to property of every description not subject to the jurisdiction of that court,—the following rules have been enacted, to be in force from the date of their promulgation. Preamble.

II. *First.* From and after the date of the promulgation of this regulation, no estate, the property of a minor, and descended to him by the regular course of inheritance, not under the charge of the Court of Wards, shall, during his minority, be sold for arrears of revenue accruing subsequently to his accession to the same. The property of a minor not to be sold for arrears of revenue accruing subsequently to his accession.

Second. It shall be competent to the Court of Wards to assume charge of such estates at any time during the minority of the proprietor, notwithstanding they may have originally refrained from interfering. The Court of Wards competent to take charge of estates at any time during the minority of the proprietor

III. In modification of the provisions contained in Section XVI., Regulation III., 1802, it is hereby enacted, that the provisions of Sections XX., XXI., and XXII., Regulation V., 1804, shall be extended to property of every description, not subject to the jurisdiction of the Court of Wards, and to the heirs of single as well as joint possessors of estates, real and personal. The provisions of Sections XX., XXI., and XXII., Regulation V., 1804, extended to all property not subject to the jurisdiction of the Court of Wards, and to the heirs of single as well as joint proprietors

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A.D. 1831. REGULATION XI.

A REGULATION *to provide more effectually for the Office of Register of Deeds:* PASSED *by the Right Honourable the Governor in Council of Fort St. George, on the 20th September*, 1831, *corresponding with the 6th of Prattasi of the year Carah*, 1754*th year of Saliwahana, and with the 12th of Rabi-us-sani*, 1247 *Hijra.*

BY Section XV., Regulation XVII., 1802, the several registers are permitted, in case of absence from their stations, sickness, or any other Preamble.

disqualification from personal attendance to the duties of their office, to appoint, with the approbation of the judge to whom they may be registers respectively, a deputy, being a covenanted servant of the Company, and duly qualified to act for them, and such deputy so appointed and approved, after taking a similar oath to that prescribed for the register, is authorized to perform the several acts which the register is by that regulation empowered to perform; but much inconvenience has been experienced by the community in consequence of vacancies in the office of zillah register, and the protracted absence of registers, who may not have appointed a deputy in the mode prescribed, and of there being no provision for the registry of deeds at the stations of the auxiliary courts and those of the *native judges*, the following rules have therefore been enacted, to be in force from the date of their promulgation.

If a *register* vested with superintendence of the office be absent from his station and have not appointed a deputy, the judge authorized to appoint one.

II. Whenever a *register* vested with the superintendence of the registry office may be absent from his station without having appointed a deputy in pursuance of the provisions of Section XV., Regulation XVII., 1802, the zillah judge is hereby authorized to appoint some duly qualified covenanted servant of the Company to act as deputy register of deeds, and the deputy so appointed, after being duly sworn, shall be authorized to perform the prescribed duties of the office.

See Act XXI., 1837.

Judge shall appoint a qualified person, being a covenanted servant, to act as register of deeds, when, from a vacancy in the office of *register*, a deputy cannot be appointed.

If there be no qualified person at the station, the judge is authorized and required to perform the duty.

III. It shall also be the duty of the zillah judge to appoint a qualified person, being a covenanted servant of the Company, to officiate as register of deeds, whenever, from a vacancy in the office of *register*, the nomination of a deputy cannot take effect agreeably to the preceding section.

Virtually modified — the office of zillah register not now existing.

IV. In the event of there being no covenanted servant at the station, to whom, in the cases mentioned in the two preceding sections, the judge may deem it proper to confide the office of registering deeds, he is himself hereby authorized and required to perform the prescribed duties of the office.

Assistant and *native judges* authorized and required to perform the duties of register of deeds.

V. *Assistant* and *native judges* are hereby authorized and required to perform the duties of register of deeds, as prescribed in Regulation XVII., 1802.

Deputy or acting register to receive the fees.

Fees to be carried to the credit of Government when zillah, *assistant, or native judge* shall register deeds.

VI. The deputy or officiating register appointed under the provisions of this regulation shall receive, during the time of his officiating, the authorized fees; but whenever the zillah, *assistant, or native judge* may perform the duty, the net amount of such fees, after defraying the necessary expense of the establishment, shall be carried to the credit of Government.

A.D. 1832. REGULATION I.

A REGULATION *to provide for the Punishment of False Allegations in Petitions to the Judicial Courts, and Fictitious Claims to Property attached in execution of Decrees:* PASSED *by the Right Honourable the Governor in Council of Fort St. George, on the 27th January,* 1832, *corresponding with the 16th of Tai of the year Carah,* 1754*th year of Saliwahana, and with the 23rd of Shaban,* 1247 *Hijra.*

WHEREAS it is considered to be highly expedient and necessary that provision should be made for the punishment of persons making false allegations in petitions addressed to the judicial courts, and setting up fictitious claims to property attached in satisfaction of decrees, the following rules have therefore been enacted, to be in force from the date of their promulgation. Preamble.

II. Any person who shall set up a fictitious claim to property attached in satisfaction of a decree of a judicial court, or who may introduce a false allegation or allegations into a petition presented [*to a Provincial Court, or*] to the court of the zillah, *assistant*, or *native judge*, with a fraudulent design, shall be punishable to the extent provided in Section XXII., Regulation III., 1802. Persons setting up fictitious claims to be punishable under Section XXII., Regulation III., 1802.

A.D. 1832. REGULATION II.

A REGULATION *for rescinding Clause First, Section XXIII., Regulation X.,* 1803: PASSED *by the Right Honourable the Governor in Council of Fort St. George, on the 2nd March,* 1832.

[Repealed with Regulation X., 1803, by Section I., Act VI., 1844.]

A.D. 1832. REGULATION III.

A REGULATION *for limiting the Period within which Complaints or Appeals preferred under Section XVI., Regulation IX,* 1822, *shall be admissible in the Courts of Adawlut:* PASSED *by the Right Honourable the Governor in Council of Fort St. George, on the 2nd March,* 1832, *corresponding with the 21st of Masi of the year Carah,* 1754*th year of Saliwahana, and with the 28th of Rumzan,* 1247 *Hijra.*

WHEREAS by Clause First, Section VI., Regulation VII., 1828, a petition of appeal to the Board of Revenue against a judgment or order Preamble.

passed under the provisions of Section V., or Section VI., Regulation IX., 1822, is required to be preferred within the limited period of three months from the date of such judgment or order, but no limitation is prescribed as to the time within which a party who has preferred an appeal accordingly, and has been referred, under Clause Second of the same section, to seek redress in the established Courts of Adawlut, may apply to such courts; and it is deemed expedient to supply this omission, and to limit the time within which a complaint or appeal preferred under Section XVI., Regulation IX., 1822, shall be admissible in the Courts of Adawlut to the same period of three months,—the Governor in Council has been pleased to enact the following regulation, to be in force from the date of its promulgation.

No suit to be received in any court unless under the hand of the secretary to the Board of Revenue, and preferred within three months from the date of the delivery of the order.

II. In modification of Section XVI., Regulation IX., 1822, it is hereby provided, that no suit, either in the form of an original complaint, or of an appeal, shall be received in any Court of Adawlut under that section, unless the plaint or petition is accompanied by the order referred to in Clause Second, Section VI., Regulation VII., 1828, under the hand of the secretary to the Board of Revenue, and is preferred within three months from the date of the delivery of the order.

The date of the delivery to be certified.

III. The date of the delivery of the order is to be certified by the officer delivering it, by an endorsement on the petition on which the order is written.

A.D. 1832. REGULATION IV.

A REGULATION *for enlarging the Sphere of Selection with regard to the Offices of Sudder Ameen, District Moonsif, and Vakeel, as well as to the several subordinate Offices in the Judicial, Revenue, and Police Departments; and for rescinding those Provisions of the existing Regulations which prevent the Descendants of Europeans by Native Mothers from purchasing Lands at public Sale, and from farming Lands, or becoming Security for Proprietors or Renters of Land, or Farmers of the public Revenue:* PASSED *by the Right Honourable the Governor in Council of Fort St. George, on the* 16*th March*, 1832, *corresponding with the* 5*th of Panguni of the year Carah*, 1754*th year of Saliwahana, and with the* 12*th of Shawal*, 1247 *Hijra.*

Preamble.

WHEREAS it has been deemed just and proper to rescind those provisions of the existing regulations which restrict the selection of persons to be appointed to the office of sudder ameen, district moonsif, and vakeel, to individuals of the Hindoo and Mahomedan persuasions, and to declare that no natives of India shall be ineligible to those offices on account of their religious belief or persuasion; and also to rescind those provisions of the existing regulations which prevent the descendants of Europeans by

native mothers from purchasing lands at public sale, and from farming lands, or becoming security for renters, farmers, or landholders,—the Right Honourable the Governor in Council has been pleased to enact the following regulation, to be in force from the date of its promulgation.

II. So much of Clause First, Section VII., Regulation I., 1827, and Clause First, Section V., Regulation VII., 1827, as restricts the selection of persons to be appointed to the office of sudder ameen in the auxiliary courts, and in the courts of the *native judges*, to individuals of the Hindoo or Mahomedan persuasion, is hereby rescinded; and no native of India shall be considered ineligible to that office on account of his religious belief or persuasion.*

Clause First, Section VII., Regulation I., 1827, and Clause First, Section V., Regulation VII., 1827, modified.

No native of India ineligible to the office of sudder ameen on account of religion.

III. So much of Section VI., Regulation VI., 1816, as restricts the judges of the several courts in the nomination of persons for the office of district moonsif, to individuals of the Hindoo or Mahomedan persuasion is hereby rescinded, and that office shall in future be open to all natives of India, whatever may be their religious belief or persuasion.*

Office of district moonsif open to all natives of India.

IV. [Who may be appointed vakeels.]—*Repealed by Section II., Act I.*, 1846.

V. It is hereby further declared that the descendants of Europeans by native mothers shall not be excluded from holding any subordinate office in the judicial, revenue, and police departments of this Government, but shall be regarded as eligible thereto according to their qualifications and services.

Descendants of Europeans by native mothers not to be excluded from any subordinate offices in the several departments.

VI. So much of Section XIX., Regulation XXVI., 1802, or of any other rule in force, as prevents, or can be construed to prevent, the descendants of Europeans by native mothers from purchasing lands at public sale, is hereby rescinded.

Rules preventing descendants of Europeans by native mothers from purchasing lands at public sale rescinded.

VII. So much of Section XLI., Regulation I., 1803, and of Section LXII., Regulation II., 1803, and of any other rule in force, as prevents, has prevented, or can be construed to prevent, the descendants of Europeans by native mothers from farming lands, or from becoming security for proprietors or renters of land, or farmers of the public revenue, is hereby rescinded.

Rules preventing them from farming land and becoming security for proprietors and farmers rescinded.

* By Sec. iii., Act XXIV., 1836, these offices were declared open to all persons of whatever birth or descent.

A.D. 1832. REGULATION V.

A REGULATION *declaratory of the Liability of Persons exercising certain Arts, Trades, and Professions to the Mohturfa Tax:* PASSED *by the Right Honourable the Governor in Council of Fort St. George, on the* 13*th April,* 1832, *corresponding with the* 3*rd of Chitteri of the year Nandana,* 1755*th year of Saliwahana, and with the* 11*th of Zilkada,* 1247 *Hijra.*

Preamble.

WHEREAS persons exercising certain arts, trades, and professions are by the law and custom of the country liable to the mohturfa tax; and whereas doubts have arisen whether, in particular cases, where persons exercising any such art, trade, or profession have hitherto, or for some period of time, not been actually charged with the tax, it is not competent to them to plead this fact in bar to the right of Government to levy it from them, which doubts it is proper to remove; and whereas it is expedient that the mohturfa tax should be collected in the same manner as the land revenue, —the Right Honourable the Governor in Council has therefore been pleased to enact this regulation, to take effect and be in force in the several districts subject to this Presidency from and after the date of its promulgation.

The mohturfa tax to be paid by all persons liable to it, although they may not have been charged with it for any length of time.

II. *First.* The mohturfa tax is declared to be payable by all persons exercising arts, trades, or professions which, according to the custom of the country, have hitherto rendered persons exercising such arts, trades, or professions liable to that tax.

Second. It is further declared and enacted, that the not having been actually charged with the said tax for any length of time, or the residing at a place where it has not been actually levied, shall not entitle any person to exemption from it.

The mohturfa tax to be collected in the same manner as the land revenue.

III. The collection of the revenue derived from the mohturfa tax shall be made in the same manner as the collection of the land revenue; and, in the event of any coercive process being necessary for the recovery of arrears of that tax, the collector shall have authority to proceed against the defaulter by distraint and eventual imprisonment, in the same manner as is prescribed by the regulations for the recovery of arrears of land revenue.

A.D. 1832. REGULATION VI.

A REGULATION *explaining the true Intent and Meaning of Section XX., Regulation XXVI., 1802, as far as it declares Native Officers or Private Servants of Collectors incompetent to purchase Land sold at Public Sale:* PASSED *by the Right Honourable the Governor in Council of Fort St. George, on the 13th April, 1832, corresponding with the 3rd of Chitteri of the year Nandana, 1755th year of Saliwahana, and with the 11th of Zilkada, 1247 Hijra.*

WHEREAS doubts have arisen whether it was intended by Section XX., Regulation XXVI., 1802, to preclude native officers and private servants of collectors purchasing at public sale lands of every description sold in the zillahs where they may be respectively employed, or whether it had reference exclusively to lands held under Regulation XXV., it has become necessary to remove those doubts by a legislative enactment. Preamble

II. It is hereby declared that the provisions of Section XX., Regulation XXVI., 1802, were and are applicable to lands of every description sold at public sale by or under the orders of a collector. Section XX., Regulation XXVI., 1802, declared applicable to lands of every description sold at public sale by or under the orders of a collector

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A.D. 1832. REGULATION VII.

A REGULATION *for rescinding Regulation VI., 1821, and Regulation IV., 1827, and in lieu thereof enacting Rules for the better Order and Discipline of Military Bazars; the more effective Administration of Justice and of the Police at the Stations where such Bazars were established, and at certain other Military Stations, and in Military Forces in the Field; the extension of the Powers of Courts-Martial; and the more effectual Prevention of the undue Use of Spirituous and Fermented Liquors and Intoxicating Drugs by the European Troops under this Presidency:* PASSED *by the Right Honourable the Governor in Council of Fort St. George, on the 4th May, 1832, corresponding with the 24th of Chitteri of the year Nandana, 1755th year of Saliwahana, and with the 2nd of Zilhijja, 1247 Hijra.*

WHEREAS Regulation VI., 1821, and Regulation IV., 1827, have been found defective and insufficient to answer their purpose, and further provisions are required for the more efficient administration of the police at stations where military bazars are established, and at certain other military stations, as well as for the improved administration of civil and criminal justice in certain cases to military persons, and for the extension of the powers of courts-martial in certain cases; and whereas further enactments Preamble.

are requisite more effectually to prevent the European troops from obtaining spirituous or fermented liquors or intoxicating drugs, otherwise than according to the regulations and under the control of the officers of Government,—the Governor in Council has therefore enacted this regulation, which shall be in force from the date of its promulgation.

Regulations VI., 1809; III., 1810; VI., 1821; and IV., 1827, rescinded

II. Regulation VI., 1809, Regulation III., 1810, Regulation VI., 1821, and Regulation IV., 1827, are hereby rescinded.

At military bazar stations, police power vested in the commanding officer.

III. Police authority and the maintenance of the peace shall be vested in the officer commanding, at all stations which shall be designated as "military bazar stations" in general orders by Government, within such limits as may from time to time be fixed by order of Government, plans whereof shall be deposited with the magistrate of the district.

And, immediately, in the commissariat officer under him.

IV. The immediate charge of the police within the said limits under the orders of the officer commanding shall be vested in the senior commissariat officer of the station, or in such other officer as may be specially appointed by the Government, who shall have authority to take examinations *on oath, or* under a solemn declaration. Previously to entering upon the discharge of his functions, he shall take and subscribe an oath, according to the form (A.) in the Appendix to this regulation, before the officer commanding, who is hereby authorized to administer the same.

See Act XXI., 1837.

Who is to take an oath.

Military bazarmen to be registered

V. *First.* In every general military bazar "at military bazar stations," a register shall be kept by the officer in immediate charge of the police, under this regulation, wherein all persons having houses, shops, or other buildings, or fixed places within the limits thereof, in which they carry on trade, or otherwise supply or serve the troops, may have their names and occupations entered. A similar register shall be kept for registering bazarmen attached to corps; and every bazarman so registered, and having a shop or shops situated within the limits of a military bazar, whether belonging to a general military bazar or to a regimental bazar, shall be exempt from the payment to Government of the veesabaddy and moturpha taxes. These registers are invariably to be deposited in the office of the commissariat or other officer in charge of the police, or of the regimental staff-officer, as the case may be; and copies of the same are to be furnished to the collector of the district, and any alteration therein duly notified to him, for which commanding officers will in all cases be held responsible.

See Act XII., 1842.

Their consent necessary, and they may demand their discharge

Second. No military bazarman shall be registered without his own consent, and, at military bazar stations, without that of the officer in immediate charge of the police, under this regulation; and every person so registered shall be discharged from registry, if there is not at the time any complaint against him, on his own demand; provided that when any corps is on actual service, or there is an immediate prospect of its being ordered to march, the commanding officer of such corps shall have authority to withhold the discharge of any person attached to the bazar of that corps; but he shall withhold it so long only as the immediate exigency of the public service may require. Whenever the discharge is granted, the name of the person discharged shall be struck out of the register, and he shall thenceforward be considered not registered.

Exception

Third. Any registered military bazarman, who, without the permission of the officer in immediate charge of the police, under this regulation, or of the regimental commanding officer, as the case may be, shall discontinue for three months, within the limits of the bazar to which he is attached, the exercise of the trade or occupation in respect to which he is registered, shall be liable to forfeit the privileges of registry, to have his name struck out of the register, and thenceforward shall be considered as not registered.

Liable to forfeit their privileges if they, for three months, discontinue their occupation.

VI. *First.* Officers in immediate charge of the police, under this regulation, shall have authority to apprehend, by warrant, all persons within their jurisdiction charged before them, upon *oath or* solemn declaration, with treason, murder, robbery, house-breaking, theft, arson, or other offence involving a dangerous breach of the peace or a serious degree of criminality. Upon a hue and cry raised against persons accused of such crimes, they may be arrested without a warrant.

Persons charged with grave offences may, on a hue and cry, be arrested without a warrant, or by a warrant from the officer in charge of the police within his jurisdiction.

Second. Persons within the said jurisdiction charged with abusive language, slight trespasses, inconsiderable affrays or assaults, using false weights or measures, or breach of local regulations established by the officer commanding under the orders of the Government, shall be only summoned in the first instance, and shall not be apprehended by warrant, unless they refuse to obey the summons issued to them.

Persons accused of minor offences to be only summoned in the first instance.

Third. Officers in immediate charge of the police under this regulation, shall have authority to apprehend by warrant, within their jurisdiction, any vagrant or suspicious person, without ostensible means of honest livelihood, or person of notoriously bad character.

Vagrants, &c. may be apprehended by warrant.

Fourth. Every summons issued by the officer in immediate charge of the police under this regulation, shall contain a short statement of the cause for which the attendance of the party summoned is required, and the name of the party at whose instance, or on whose accusation, he is summoned, and shall require him to attend at a certain time and place.

Form of summons.

Fifth. Every warrant for apprehension issued by the officer in immediate charge of the police under this regulation, shall be in the form (B.) contained in the Appendix to this regulation.

And of warrant.

VII. Persons apprehended under Section VI. shall, within twelve hours after their apprehension, be delivered over by the commanding officer, as provided in Section XXXIV., to the magistrate, joint magistrate, or assistant magistrate, or in their absence, to the nearest native officer of police under them, unless the prisoner is charged with one of those particular offences which have been, or may be, by law made punishable by courts-martial, or by the officer in immediate charge of the police under this regulation, and is a person by law declared amenable to these tribunals.

All persons apprehended to be made over to the civil power, except persons amenable to a military tribunal for offences cognizable by it.

VIII. *First.* Officers in immediate charge of the police under this regulation, shall have power to summon any person resident within military limits, as a witness before themselves, or before punchayets assembled by them, under this regulation; provided always, that no woman shall be summoned whose rank or caste may render it improper to require her attendance. When the evidence of such a woman may be

Witnesses, how to be summoned within military limits.

required, the officer in immediate charge of the police under this regulation shall require her to furnish her deposition in writing, duly attested; the deponent shall state in her deposition that she is prepared *to swear or* to take a solemn declaration to the truth of it, if required.

And without.

Second. When officers in charge of the police under this regulation shall require the attendance of witnesses residing without military limits, the summons shall be sent to the principal native officer of the village in which the witness resides, to be served by him, unless there be a European civil officer in the magistracy on the spot, in which case it shall be sent to him to be served; if the witness resides more than four miles beyond such limits, the officer commanding shall send the summons to the nearest European civil officer in the magistracy, with a letter, in the form contained in the Appendix (C.) to this regulation. The civil magisterial officer shall immediately countersign the summons, and cause it to be served, endorsed, and returned accordingly.

Section VIII. applicable to witnesses summoned by courts-martial.

IX. The provisions contained in the preceding section shall apply to all witnesses summoned by courts-martial.

See Art. 99, Act XIX., 1847.

Batta to be paid to witnesses in certain cases.

X. Witnesses resident beyond military limits attending to give evidence before officers in immediate charge of the police under this regulation, or before any court-martial whatever, shall be entitled to receive batta, at the rate of not less than one, or more than four annas per day; the rate to be fixed by the officer in immediate charge of the police under this regulation, or by the court-martial, as the case may be, with reference to the rank and circumstances of each witness. The batta shall be paid daily or otherwise, as it may be applied for, and in all civil suits the sum so paid shall invariably be recovered as the costs due from the parties; the party cast paying the same in the proportion which the sum decreed against him may bear to the sum sued for.

Witnesses not attending, or refusing to give evidence, or to sign their deposition, punishable.

By fine

XI. *First.* Any witness summoned by a court-martial, or by an officer in immediate charge of the police under this regulation, who shall neglect or refuse to attend, or to give his testimony, or to sign or mark his deposition, if required, shall be liable to be fined by the said officer in immediate charge of the police, or by the court-martial, as the case may be, in a sum not exceeding 200 rupees; provided always, that in the event of such circumstance occurring before a punchayet assembled under this regulation, a written communication thereof shall be made by them to the officer in immediate charge of the police. In addition to payment of the fine, the said witness, when forthcoming, may, by order of the commanding officer, be committed to close custody, until he shall consent to give his evidence, and, if required, to sign or mark his deposition.

And imprisonment.

If the fine be not paid, proceeding to be held by the military.

Second. If the fine be not paid forthwith, the amount thereof shall be levied by seizure and public sale of such goods of the offender as may be found within the military limits; or if sufficient property be not found within these limits, an application shall be made by the commanding officer to the zillah judge or *assistant* judge within whose jurisdiction his property may be situated, according to the form (D.) in the Appendix to this regulation.

And by the civil authority.

Third. The zillah judge or *assistant* judge shall levy the amount

specified in such application from any property belonging to the offender which may be found within the jurisdiction of his court, and shall communicate the result of his proceedings and remit the amount levied to the commanding officer.

Perjury before the military tribunals, how punishable.

XII. Whatever person, having made *oath or* solemn declaration before an officer in charge of the police under this regulation or before any court-martial whatever, shall wilfully and deliberately depose falsely touching any point material to the issue of the cause pending, such person, if subject to the rules and articles of war for the government of the native army under this Presidency, shall be dealt with according to those rules and articles; and if not subject to the same, shall be sent by the commanding officer, as provided in Section XXXIV., to the nearest *criminal judge* or *joint criminal judge*, together with the original deposition on which the perjury is assigned, duly signed and certified, and the witnesses who can prove the fact which falsifies the deposition, and also the witnesses who can prove the wilful and deliberate giving of the deposition. The *criminal judge* or *joint criminal judge* shall dispose of the case under Section IX., Regulation X., 1816. On conviction before the *Court of Circuit*, such person shall be liable to the punishment provided for perjury by Clause First, Section III., Regulation VI., 1811.

Certain specified petty civil offences by native members of the army to be tried by courts-martial.

XIII. *First.* For abusive language, slight trespasses, inconsiderable assaults or affrays, using fale weights or measures, breach of general orders or local regulations established by the commanding officer under the orders of the Government for the maintenance of good order and discipline; simple theft to an amount or value not exceeding twenty rupees, unattended by circumstances of violence or outrage, and not committed by persons in gangs, or of notoriously bad character; and also for buying or receiving stolen property not exceeding twenty rupees in value, knowing it at the time to have been stolen—all native non-commissioned officers or soldiers whatsoever; all natives receiving pay or being hired in the service of the artillery, engineers, or pioneers; all military surveyors or draftsmen; all farriers, drummers, and trumpeters; and all apothecaries, assistant apothecaries, dressers, and hospital attendants, are hereby made liable to trial by native courts-martial, to be assembled as provided in *Article XI., Section IX. of the Rules and Articles of War for the government of the native army under this Presidency;* and power is hereby vested in such courts to try all such persons so accused, and, upon conviction, to pass sentence of punishment as provided in Section XV.

Substitute Sec. iii., Act XIX., 1847.

The same offences by followers and other military classes to be tried either by a court-martial or by the officer in charge of the police.

Second. For all or any of the offences specified in the foregoing clause, all natives not therein specified, receiving public pay drawn by an officer in charge of a public department appertaining to the army; all artificers and labourers appertaining to the army or military arsenals; all servants of military officers; all public and private servants on the establishment of chaplains at military stations; all military bazarmen registered according to Section V.—and beyond the frontier, all native subjects of the Company, of whatever description, who may have followed the troops into the field, or may be there residing within the limits of a military camp or cantonment, are hereby made liable to be tried, either by courts-martial, to be assembled as provided in the preceding clause, or, at stations where

police authority and the maintenance of the peace has been specially vested by Government in the officer commanding, then, at his discretion, by the commissariat or other officer in immediate charge of the police under this regulation; and power is hereby vested in such courts, and such commissariat or other officer respectively, to try all such persons so accused, and, upon conviction, to pass sentence of punishment as provided in Section XV.

Embezzlement of money by officers' servants, if not exceeding twenty rupees, to be tried in like manner.

Third. And in like manner, all servants of military officers are hereby made liable to be tried, either by courts-martial, or, at military bazar stations, by the commissariat or other officer in immediate charge of the police, for embezzling or otherwise wilfully misapplying money entrusted to them by their masters to an amount not exceeding twenty rupees, and power is hereby vested in such courts, and such commissariat or other officer respectively, to try all such persons so accused, and, upon conviction, to pass sentence of punishment as provided in Section XV.

Breach of bazar rules by military bazarmen to be tried by court-martial, or by the officer in charge of the police.

XIV. At military bazar stations, every military bazarman registered according to Section V., shall be subject to all regulations established by the commanding officer under the orders of Government, for the maintenance of good order and fair-dealing in the bazar, and for the prompt and efficient execution of such services as belong to their respective occupations; and for any breach thereof, he is hereby made liable to be tried by the commissariat or other officer in immediate charge of the police under this regulation; and power is hereby vested in such commissariat or other officer respectively to try the said accused, and, upon conviction, to pass sentence of punishment as provided in Section XV.

Punishment for such petty civil offences.

XV. *First.* The persons specified in Sections XIII. and XIV., if convicted of simple theft, not exceeding twenty rupees, unattended by circumstances of violence or outrage, or of receiving stolen property, not exceeding twenty rupees in value, knowing it at the time to have been stolen; and servants of military officers, if convicted of embezzlement or wilful misapplication of money entrusted to them by their masters, not exceeding twenty rupees, shall be sentenced to imprisonment with hard labour, not exceeding one month, or to lashes not exceeding fifty, with a cat-of-nine-tails, or to both in aggravated cases. If convicted of any other of the offences therein enumerated, such persons shall be sentenced to imprisonment not exceeding one month; provided always, that persons above the condition of petty dealers, menial servants or workmen, if found guilty of a breach of local or bazar regulations established by the commanding officer under the orders of the Government, shall be sentenced only to pay a fine, in no case exceeding 100 *Madras* rupees; and if the fine be not paid forthwith, to imprisonment not exceeding one month in lieu of it.

If deemed insufficient, proceeding to be held.

Second. Within the territories subject to this Government, if any person specified in Sections XIII. or XIV. accused of the offences therein enumerated shall appear, upon due investigation previous to trial, deserving of severer punishment than is authorized in the preceding clause, he shall be sent to the nearest *criminal judge* or *joint criminal* judge, together with the prosecutor and witnesses, in the manner directed by Section XXXIV.

XVI. *First.* Any native smuggling, or attempting to smuggle, spirituous or fermented liquors or intoxicating drugs within the limits described in Section XLIII., and within the limits of any military station or cantonment to which the Governor in Council, under the powers vested in him by Section XXXVIII., may declare the provisions of the regulation to be applicable, and within such further limits round any of them as may be fixed by general orders by Government; any native selling the same within the said limits to or for any European non-commissioned officer or soldier, or European woman, except, as sanctioned by general orders of Government, in canteens of European regiments; and any native, not being a vender duly licensed, having in his possession, within the said limits, more than one bottle of the said liquor, or more than one seer of the said drugs, without a permit, is hereby made liable to be tried for the first offence by the commissariat or other officer in immediate charge of the police, and for a subsequent offence by a court-martial for the same.

Natives smuggling or attempting to smuggle liquor or intoxicating drugs, illegally selling them to or for Europeans, or illegally having in possession more than a certain quantity of the same within military limits, how to be tried

Second. Natives convicted under the preceding clause shall be sentenced to be imprisoned with hard labour, not exceeding one month, or to lashes not exceeding fifty, and for aggravated offences, to both; provided always, that persons convicted of having liquor or drugs in their possession as aforesaid shall not be sentenced to corporal punishment for the first offence.

Punishment

XVII. Courts-martial assembled under this regulation shall be constituted and conducted according to the rules and articles of war for the government of the native army under this Presidency, contained in *Regulation V.*, 1827,* subject to such subsidiary rules as are herein contained; but no person amenable to a court-martial for any offence cognizable by it under this regulation shall have the right to claim to be tried by an European general court-martial, as granted by the additional articles of war contained in *Regulation III.*, 1829,† to persons accused of those offences which are cognizable by courts-martial under the general rules and articles of war for the government of the native army under this Presidency, contained in *Regulation V.*, 1827.*

Courts-martial under this regulation to be guided by the native Articles of War, but the offences established by it not cognizable by an European general court-martial

XVIII. No sentence exceeding a fine of twenty rupees, or imprisonment for twenty-four hours, passed by the officer in immediate charge of the police under this regulation, shall be carried into execution until all the proceedings in the trial before him shall first have been laid before the officer commanding, who, after calling the prisoner before him, and hearing any thing he may urge in mitigation or remission of punishment, shall, in writing, either confirm, mitigate, or altogether remit the same, as he shall see fit; and any sentence approved by him shall, by his authority, be carried into execution.

Sentences of the officer in charge of the police not to be executed until confirmed by the commanding officer.

See Secs. xlviii. and xlix., Act VII., 1843

XIX. Whenever it may be necessary, within the territories subject to this Government, to carry into effect a sentence of imprisonment and hard labour, under this regulation, the commanding officer shall forward the person sentenced to the nearest Criminal Court, with an authenticated copy of the sentence, in the mode prescribed by Section XXXIV. of this

Persons sentenced to hard labour to be sent to the Criminal Court

* Substitute Act XIX., 1847. † Substitute Articles 101 and 157, Act XIX., 1847.

regulation; the Criminal Court shall receive such persons, and imprison and work them in conformity with their sentence. Beyond the frontier such sentences shall be carried into effect as the officer commanding may direct.

See Act VIII., 1844.

This regulation not to affect the powers of the civil courts to punish civil offences by the military, nor to authorise the trial of civil inhabitants by the military tribunals, except as hereby directed.

XX. Nothing contained in this regulation is intended to prevent the civil authorities from taking cognizance of charges against military persons for offences committed either in or out of the military limits, which by law may be cognizable by the civil tribunals only; or to render amenable to courts-martial, or to punishment by the officer in charge of the military police, accused persons arrested within the military limits, though in the habit of resorting to the military bazar, who are not included in any of the military classes specified in Section XIII., unless they be natives infringing the provisions of Section XVI. of this regulation. All other accused persons must invariably be made over to the civil magistracy, or, in their absence, to the nearest native police officer under them, as directed in Section VII.; and it is hereby declared, under Clauses CV. and CVII. of the Act of Parliament of the 53rd Geo. III., c. 155, published in Regulation II., 1820, that all British subjects of His Majesty, as well the servants of the East-India Company as others, are liable to prosecution before the magistrate or *criminal judge of the zillah*, and to be fined to the extent of 500 rupees; and that all such British subjects are also liable to be sued before the Civil Courts of the district in which they reside, for damages to an unlimited amount, on account of inflicting upon any native of India punishment unauthorized by law, or illegally subjecting to trial by court-martial, or to punishment by the officer in immediate charge of the police under this regulation, persons not by law expressly made subject thereto.

The accused in such cases to be made over to the civil power.

Declaration of the law as to illegal punishment and illegal trial of natives.

See Act XI., 1836.

Extension of Article VII., Section XII., of the Native Articles of War.

XXI. First. Article VII., Section XII., of the Rules and Articles of War for the Government of the native army under this Presidency, contained in Regulation V., 1827, is hereby extended to all actions of debt not exceeding 400 rupees, in which the defendant, at the time the cause of action arose, was of any of the military classes specified in Section XIII. of this regulation, and continued to be so at the period of the institution of such suit.

Superseded by Act XI., 1841, which established Military Courts of Requests.

Explanation thereof.

Second. In explanation of the said Article of War, it is hereby declared and enacted, that no suits for damages, or concerning disputes of caste, or for the division of family property, or for the right or possession of land or other real property, shall be received and determined under the authority of the said article; but all such suits shall be referred to the civil tribunals, to be tried under the general regulations.

Civil suits, under twenty rupees, against the native military, to be tried by the officer in charge of the police under this regulation.

Third. In further explanation *of the said Article of War*, it is hereby enacted, that at all military bazar stations suits for the recovery of any debt not exceeding twenty rupees, in which the defendant at the time the cause of action arose, as well as at the period of the institution of the suit, was a native non-commissioned officer or soldier, or belonged to any of the military classes specified in Section XIII. of this regulation, shall be brought before the officer commanding, who shall, by a written order, refer them to the officer in immediate charge of the police under this regulation; and the officer in charge of the said police is hereby vested with authority to investigate, decide, and determine all such suits.

See Sec. i., Act XI., 1841.

Fourth. The officer in immediate charge of the police under this regulation, previously to acting under the preceding clause, shall take and subscribe an oath, according to the form (E.) in the Appendix to this regulation, before the commanding officer, who is hereby authorized to administer the same.

Who is to take an oath.

See Act XXI., 1837.

XXII. *First.* No suit of the nature and limited amount specified in *Article VII., Section XII. of the Rules and Articles of War for the government of the native army under this Presidency, as extended and explained in Section XXI. of this regulation,* shall be admitted in any of the civil courts against any person belonging to any of the military classes specified in Section XIII. of this regulation, unless it be averred in the plaint that the defendant was not of any of these classes when the cause of action arose, or when the suit was instituted. In that case, when the usual notice shall be served on the defendant, if he shall have been of the description specified when the cause of action arose, as well as when the suit was instituted, he shall obtain and deliver to the civil officer by whom the notice is served, a certificate of the kind provided for in the following section, which certificate shall be received by the civil court which issued the notice as proof of the facts declared in it.

Substitute Sec. ii., Act XI., 1841.

Certain suits against the native military not cognizable by the civil courts.

Exception

Second. If the defendant shall not deliver such certificate, he shall either attend pursuant to the notice, or, in default thereof, be dealt with by the civil court in the manner prescribed by the regulations.

Consequence if the military native sued in the civil court does not produce a certain certificate.

Third. If the defendant, on being served with the usual notice by the civil court, shall maintain that the debt for which he is sued is of the description or amount cognizable by a military court, or by the officer in immediate charge of the police under this regulation, he shall attend pursuant to the notice, or, in default, be dealt with by the civil court according to the regulations. On his attendance and producing the certificate provided for by Section XXIII. of this regulation, the civil court shall immediately make such summary inquiry as may appear necessary, to ascertain whether the debt is, or is not, of the nature and amount specified in *Article VII., Section XII., Regulation V.,* 1827, *as extended and explained by Section XXI. of this regulation;* and the decision of the civil court on this point shall be final, so far as to determine whether the suit shall be entertained by it or not.

Or if he maintains the suit against him to be cognizable by the military tribunals.

Substitute Sec. ii., Act XI., 1841

Fourth. Clause Second, Section XXV., Regulation XIII., 1816, *and Section V., Regulation VI.,* 1828,* shall be applicable to suits dismissed under this section.

* Rescinded by Sec. ii., Act I., 1846.

Clause Second, Section XXV., Regulation XIII., 1816, and Section V., Regulation VI., 1828, applicable to suits dismissed under this section.

XXIII. A certificate, in the form (F.) in the Appendix to this regulation, shall be granted, on application of officers or soldiers, by the officer commanding their regiment; or, on application of persons of any of the other military classes specified in Section XIII., by the officer in charge of the military police at military bazar stations, and elsewhere by the officer in charge of the department to which they belong.

Certificate to be granted by the military to military persons sued in civil courts.

XXIV. Officers in immediate charge of the military police shall have authority to summon punchayets for the decision of suits for sums of money, or other personal property, without limitation as to amount or value, provided the defendant in the suit was a native officer or soldier,

Officers in charge of the military police may, in certain cases, assemble punchayets to decide civil suits to an unlimited extent.

or belonged to one of the other military classes specified in Section XIII., at the period when the cause of action arose, as well as at the institution of the suit, and provided both parties consent in writing to this mode of decision.

Punchayet, how to be constituted.

XXV. Each party shall nominate two members of the punchayet, and the officer in charge of the military police shall nominate one additional member, who shall be unobjected to by the two parties.

Punchayet, how to be assembled and to proceed.

XXVI. *First.* The punchayet shall be assembled by the written summons of the officer in charge of the military police, and shall proceed in the same manner as district punchayets under Regulation VII., 1816, with the exception specified in this regulation.

Mochulka to abide by award to be witnessed and dated by the officer in charge of the police, to whom certain communications are to be made.

Second. The usual mochulka of the parties, to abide by the award of the punchayet, shall be witnessed and dated by the officer in charge of the police, and filed in his office; and the punchayet shall make to him all such communications and reports as district punchayets are required to make to district moonsifs, and also deliver to him their proceedings, and two copies of their award.

Officer in charge of military police, on receiving a list of witnesses and a notice of the day of trial, to require the attendance of witnesses, under Section VIII.

Third. The officer in charge of the military police, on receiving from the punchayet a list of the witnesses, and a notification of the day fixed for the trial, shall require the attendance of the witnesses, in conformity with Section VIII. of this regulation.

How to proceed on failure of parties to attend.

Fourth. If a punchayet shall report to the officer in charge of the military police that the parties, or either of them, have failed to attend in person, or by vakeel, at the time fixed for the trial, the said officer shall cause to be affixed in some conspicuous situation in the village, or other place where the defaulting party may reside, a notice, specifying that the suit will be tried on a given day, which shall not be less than five days from the date of such notice.

On failure of witnesses to attend.

Fifth. If a punchayet shall report to the officer in charge of the military police that a witness has refused or neglected to attend, or to give his testimony, or to sign his deposition, the officer in charge of the military police shall proceed respecting such witness agreeably to Section XI. of this regulation.

When witnesses have been guilty of gross disrespect to the punchayet.

Sixth. If a punchayet shall report to the officer in charge of the military police that a party or witness has been guilty of gross disrespect to them, the said officer may impose a fine on such party or witness proportioned to his situation and circumstances in life, but in no case exceeding ten rupees, to be commuted, if not paid, for imprisonment in no case exceeding five days.

On receiving the award of the punchayet, police officer to summon parties and deliver a copy to each.

Seventh. The officer in charge of the military police, on receiving the award of a punchayet assembled under this regulation, shall summon the parties before him, and having declared the decision of the punchayet, shall deliver a copy to each party, endorsing thereon the date of the delivery.

How to proceed if either party neglect to attend or receive copy of award.

Eighth. If either party shall neglect or refuse to attend, or to receive a copy of the award, the officer in charge of the military police shall endorse on the copy intended for such party his neglect or refusal, with the date thereof, and attest it with his official signature, and retain the copy, to be afterwards delivered to the party if he should claim it.

XXVII. *First.* No appeal shall be permitted from decisions passed by punchayets under this regulation; but if the punchayet shall be guilty of gross partiality, it shall be at the option of either party to bring the matter by petition, upon stamped paper of the prescribed rate, according to the amount of the suit, before the judge of the zillah within whose jurisdiction the punchayet may be assembled.

No appeal from decision under this regulation.

If the punchayet shall be guilty of gross partiality, either party may petition the zillah judge.

Second. The petition shall not be received unless it be presented, with the award complained of, within thirty days after the date on which copies of the award may have been furnished or tendered to the parties.

within thirty days after tender of copies of award.

Third. If the petition be received, and the partiality charged against the punchayet shall be established to the satisfaction of the judge, by the *oaths* of two credible witnesses at the least, he shall in every case, whatever the amount or value of the suit may be, submit his proceedings, with his opinion on the case, to the *Provincial Court of Appeal*, who, provided the charge be proved by such proceedings to their satisfaction, shall annul the decision.

See Sec xxii., Act VII, 1843.

Zillah judge, after investigation, to submit his proceedings, with his opinion, to the *Provincial Court*, who, if they consider the charge proved, shall annul the decision.

Fourth. Petitions to the judge of the zillah, under this section, shall be presented by the parties in person or by an authorized vakeel of the court, to whom a fee of four annas of a rupee shall be allowed, and no more, and the parties shall not be subjected to any other charge whatever.

See Act I 1816

Petition under this section, how to be presented.

XXVIII. *First.* If within thirty days from the date of the delivery or tender to the parties of the award by the punchayet, a petition shall be received by the judge of the zillah,* alleging that the punchayet has been guilty of gross partiality, the judge shall give information thereof to the officer commanding the station at which the punchayet was assembled, by a letter in the form (G.) in the Appendix to this regulation.

If petition be received within the limited time, zillah judge shall give information thereof to the commanding officer at the station.

Second. The commanding officer, on receiving a letter in the foregoing form, shall order execution of the punchayet's award to be stayed till a further communication be made to him by the civil court.

Who will cause execution of the award to be stayed until further communication

Third. When the charge has been examined and finally decided upon, the judge shall communicate the result to the commanding officer, by a letter in the form (H.) in the Appendix to this regulation.

Charge having been investigated and decided upon, zillah judge to make a certain communication to the commanding officer.

XXIX. When the award of a punchayet shall be annulled by the *Provincial Court of Appeal*, the parties shall be at liberty to bring their dispute, by written consent of both, before a fresh punchayet, or, by complaint of either, before any other competent tribunal; provided always, that if a second punchayet come to the same decision as the first, the second decision shall be final.

If award of punchayet be annulled by the *Provincial Court*, parties how to proceed

Decision of second punchayet, if similar to that of the first, final

XXX. Members of punchayets, assembled under this regulation, shall be liable to prosecution in the Zillah Court* for corruption in the discharge of their trust, conformably to the provisions of Section XVIII., Regulation VII., 1816.

Members of punchayets liable to prosecution in the Zillah Court for corruption, under Section XVIII., Regulation VII, 1816

XXXI. Officers in charge of military police, courts-martial held, and punchayets assembled, under this regulation, shall not refuse to receive any document whatever on account of its not being written on stamped paper.

No stamped paper requisite before the military tribunals.

* See Sec xvii., Act VII., 1843.

Interest in civil suits before the military tribunals.

XXXII. Officers in immediate charge of the police under this regulation, courts martial, and punchayets assembled under Section XXIV. of this regulation, *or under Article VII., Section XII. of the Rules and Articles of War for the government of the native army under this Presidency,* shall not decree interest above twelve per cent. per annum, even where more may have been stipulated; nor interest to an amount exceeding the principal; nor compound interest, except where a former bond has been cancelled, and a new one entered into for principal and interest consolidated, in which case they may decree interest on the amount of the new bond as on principal money.

Superseded by Secs. i. and ii., Act XI., 1841.

Decrees of the military tribunals in civil suits, how to be executed.

XXXIII. *First.* Decisions in civil suits passed by officers in immediate charge of the police under this regulation, by courts-martial held, or by punchayets assembled under its provisions, shall, on the application of the party in whose favour the judgment is given, be carried into execution, by the officer in charge of the said police, under the orders of the commanding officer, in the manner prescribed by *Article VII., Section XII. of the Rules and Articles of War for the government of the native army under this Presidency;** provided that no award of a punchayet shall be carried into execution until forty days after the date on which copies of it were delivered or tendered to the parties; provided also, that when the amount or value awarded by a punchayet shall not have been paid by the party cast, and cannot be realized from any property or effects belonging or due to him within the military limits, application may be made by the commanding officer to any zillah judge within whose jurisdiction property belonging to the defaulter may exist, to realize the residue; and the said zillah judge shall levy the amount from any property of the defaulter within his jurisdiction, remitting the amount, and communicating the result to the commanding officer. Meantime, such defaulter shall be arrested and imprisoned for two months, as above provided, according to *Article VII., Section XII., Regulation V.*, 1827;* and at the expiration of the said two months, he shall be liable to be sent by the commanding officer to the nearest judge, or *assistant* judge of the zillah, who, if the plaintiff pays the usual batta for his prolonged confinement in gaol, shall proceed regarding him as against other civil debtors.

Second. Persons sent under the preceding clause shall be accompanied by an authenticated copy of the award of the punchayet, and shall be sent in the mode prescribed by Section XXXIV. of this regulation.

How persons forwarded by the military to the civil power are to be sent.

XXXIV. *First.* Whenever, under the provisions of this regulation, it shall be necessary to forward any person to a criminal or civil court, to a European civil officer of the magistracy, or to a native officer of police under them, the commanding officer shall send him, under proper custody, accompanied with a paper in the English language to the European officers, and a paper in the native language to the native officers, in duplicate, according to the form (J.) in the Appendix to this regulation.

The civil officers to certify the receipt of them.

Second. The civil officer to whom the said paper is addressed shall certify on the back of one of the papers whether the persons and documents specified in it have been duly received, and the copy so endorsed shall be

* Substitute Secs. xiv. and xv., Act XI., 1841.

returned to the person who delivered it: the other paper shall remain with the civil officer.

Third. The civil officers shall receive all persons thus sent to them, and shall proceed concerning them according to the general regulations.

And to proceed regarding them under the general codes.

XXXV. *First.* Officers commanding at military bazar stations are hereby vested, within the limits of their authority, with power to remove nuisances and to prevent all future encroachments upon the streets of the bazars and pettahs within their jurisdiction by houses, pandals, and other buildings.

Nuisances and future encroachments removable at military bazar stations.

Second. But nothing contained in this regulation shall be construed to authorize commanding officers to dispossess proprietors of land or of houses situated within the limits of any military bazar station; provided always, that the occupation of ground which, in case of dispute, the civil courts have settled to be exclusively the property of Government when once allotted to bazars shall be subject to all such regulations as are now or may be hereafter established by general orders of the Government.

Exception

XXXVI. Whenever natives shall die without heirs, or abscond, and in either case leave property within the limits of any military bazar station, the commanding officer of that station shall send a correct inventory of the property to the nearest *zillah* judge or *assistant* judge, as the case may be, who shall proceed respecting it agreeably to Clause Seventh, Section XVI., Regulation III., 1802.

Proceeding as to unclaimed property at military bazar stations

XXXVII. *First.* During the temporary absence of the officer in immediate charge of the police under this regulation, such other military officer as may be nominated by the commanding officer of the station shall exercise the duties assigned by this regulation to officers in charge of the said police.

An officer may be appointed to act for the officer in charge of the police in his absence

See Act XXI, 1837

Second. The person so nominated, previously to entering on the duties of his office, shall take and subscribe oaths similar to those prescribed in Section IV. and Section XXI. of this regulation, before the commanding officer, who is hereby authorized to administer the same.

To take certain oaths.

XXXVIII. It shall be competent to the Governor in Council, at any time, by an Order in Council, communicated to the civil authorities and published in General Orders to the army, to declare all or any part of this regulation, which may now specially apply to commanding officers at military bazar stations only, to be applicable to commanding officers at any other military station besides military bazar stations. The limits of such jurisdiction shall, however, previously be defined by the Government, and plans thereof shall be deposited with the magistrate of the district, and where there may be no commissariat officer on the spot, a military officer shall be appointed by the Government to take immediate charge of the police under this regulation, subject to the orders of the officer commanding the station, and to exercise all or such part of the powers vested by this regulation in the officer in immediate charge of the police, as the Government in each case may specifically delegate to him.

Government may extend any part of this regulation to officers commanding at other than military bazar stations

And if no commissariat officer is stationed there another may be nominated to exercise, to any extent, the powers vested in the officer in charge of the police

XXXIX. *First.* Whenever it may be necessary to execute, within the

Arrests in certain

military stations, how to be conducted

limits of a military station at which one corps or more may be quartered, process of arrest issuing from any civil or criminal court (His Majesty's Supreme Court at Madras only excepted), the officer charged with the execution of such process of arrest shall carry it to the commanding officer, or senior officer in the station, who shall immediately endorse it with his signature and use his utmost endeavours to cause the person or persons therein named to be discovered, and if within the limits of the station, to be forthwith arrested and delivered, according to the exigency of the process, to the civil officer charged with the execution thereof.

Not to apply to summonses, &c.

Second. But nothing contained in the foregoing clause of this section shall be construed to prevent the direct service by the civil officers, in the usual way, of notices, summonses, subpœnas, or other process of mere citation, without arrest, or require any communication to the commanding officer, or any endorsement by him on such notice or process not involving personal arrest.

Beyond the frontier, certain criminal powers vested in the officers in charge of the military bazars, subject to the control of the commanding officer

XL. *First.* Officers commanding stations beyond the frontier, or detachments in the field beyond the frontier, in lieu of bringing to trial by courts-martial the persons enumerated in Clause Second, Section XIII., for the offences specified in Clause First of the same section, are hereby authorized, at their discretion, to bring the said persons, for the said offences, to trial before the officer in charge of the general camp or field detachment bazar respectively, who is hereby vested with power to try all such persons so accused, and, upon conviction, to pass sentence of punishment, according to Section XV. of this regulation, to be carried into effect if approved by the officer commanding, who, as regards such trials, is hereby vested with the powers specified in Section XVIII.

Oath to be taken by them.

Second. Officers in charge of general camp or field detachment bazars, previously to exercising these functions, shall take and subscribe an oath similar to that contained in Section IV. before the commanding officer, who is hereby authorized to administer the same. See Act XXI., 1837.

Beyond the frontier, certain civil suits cognizable by the officers in charge of the military bazars.

XLI. At all stations beyond the frontier, and in all detachments in the field beyond the frontier, the officer in charge of the general camp or field detachment bazar respectively is hereby vested with authority to investigate, decide, and determine all suits of the amount and nature specified in Clause Third, Section XXI., provided the defendant at the time the cause of action arose, as well as at the period of the institution of the suit, was of the description therein specified. The said officers, previously to exercising these functions, shall take and subscribe an oath, similar to that contained in Clause Fourth of the said section, before the officer commanding, who is hereby authorized to administer the same. See Act XXI., 1837.

Beyond the frontier, civil suits to any amount to be brought before military courts specially constituted.

XLII. *First.* In civil suits to any amount or value, not cognizable under the preceding section, nor by courts-martial under *Article VII., Section XII. of the Rules and Articles of War for the government of the native army under this Presidency, as modified and explained by Section XXI. of this regulation,* nor by any of the civil courts under this Government, wherein the defendant, at the time the cause of action arose, was a native officer or soldier, or of any of the other military classes specified in Section XIII., and at the time of the institution of such suit Substitute Sec. ii., Act XI., 1841.

continued so to be, at any station beyond the frontier, or with any detachment in the field beyond the frontier, it is hereby declared that it shall be competent to the officer commanding such field station or detachment, by mutual consent of the parties, to refer the same for decision to a native punchayet consisting of five persons, of whom each party shall nominate two members and the commanding officer the fifth; and the power is hereby vested in such punchayets to try, decide, and determine all such suits.

Second. The decision of the said punchayet should be carried into effect by the commanding officer, unless either party, within ten days after the passing of their award, present to him in writing a charge of gross partiality against the punchayet. In such cases, an appeal shall lie from the award of such punchayet to the tribunal specified in the following clause.

In certain cases, an appeal to lie from their award.

Third. In the suits specified in Clause First, where the defendant may altogether refuse to refer the claim upon him to the decision of a punchayet, or where having consented thereto, and an award having been passed, a charge of partiality may be preferred against the punchayet within the period before stated, the officer commanding shall immediately assemble a court-martial, to be composed of not fewer than five experienced European officers, including the president, who shall not, on any occasion, be below the rank of a captain, and in all possible instances shall be a field officer; and power is hereby vested in such courts-martial to try, decide, and determine all such suits. The decisions of such courts to be final, and judgment thereupon to be carried into effect under the orders of the officer commanding.

Such cases, and all civil suits of the said description which the defendant may not agree to refer to a punchayet, to be finally decided by a board of European officers

XLIII. Within the limits of all military bazar stations, and within such further limits around any of them as may be fixed by general orders of Government, the manufacture and sale of all fermented and spirituous liquors and of intoxicating drugs shall be under the exclusive control of the commissary-general.

Within certain limits, the manufacture and sale of liquor and drugs placed under the commissary-general.

XLIV. Within the said limits, all persons are forbidden to manufacture or sell fermented or spirituous liquor or intoxicating drugs without a special licence from the officer in immediate charge of the police under this regulation, to be issued under such rules and containing such stipulations as from time to time may be established by the commissary-general, under the written sanction of the Government. All persons unlicensed by the officer in charge of the police manufacturing or selling such liquors or drugs, within the said limits, shall be liable to the penalties set forth in Clause Second of Section XVI. of this regulation; provided always, that persons convicted of selling such liquors or drugs without a licence shall not be liable to corporal punishment for the first offence.

Penalty for manufacturing or selling the same within the said limits without a licence from the officer in charge of the police

XLV. *First.* At military bazar stations, the officer in immediate charge of the police under this regulation shall have power to grant permits for protecting any fermented or spirituous liquors or intoxicating drugs within the limits fixed by Government for the exclusive control of the commissary-general. All fermented or spirituous liquor exceeding one bottle, and all intoxicating drugs exceeding one seer, found within the said limits without such permit, in the possession of any person not being a vender licensed under Section XLIV., shall be liable to seizure and confiscation

Permits to be granted for the protection of liquor and drugs within the said limits

When a quantity thereof, exceeding that specified, is found without a permit, it may be confiscated.

by the officer in immediate charge of the police under this regulation, excepting it be liquor brought in for the private use of European residents and accompanied by a permit from the collector of Madras or of the zillah from which it may have been procured. Such permits shall be delivered to the officer in immediate charge of the police, under this regulation, who shall issue one of his own for the protection of the said liquor.

How to be disposed of.

Second. Where there is a military contractor for the exclusive sale of spirituous and fermented liquors and intoxicating drugs, all such liquors or drugs confiscated under this regulation shall be made over to him, provided the discovery of them shall have been made by him or by his means; otherwise they shall be disposed of, by order of the commissary-general, for the benefit of Government.

Search-warrants may be issued for the same.

XLVI. *First.* If the officer in immediate charge of the police at military bazar stations shall receive information, upon *oath*, that smuggled spirituous or fermented liquors or intoxicating drugs are concealed in any house or other place within the limits fixed by Government for the exclusive control of the commissary-general, he shall sign a warrant, in the form (K.) in the Appendix to this regulation, and deliver it to one or more persons, whose names shall be inserted therein, and who shall execute the same.

How to be executed.

Second. No such warrant shall be executed but between sunrise and sunset, nor in the apartments of native women of respectability and credit who do not ordinarily appear in public, except by women who shall be specially deputed for that purpose by the officer in charge of the military police.

Smuggled liquors or drugs to be confiscated.

Third. Spirituous or fermented liquors or intoxicating drugs so found, and proved to the officer in immediate charge of the police under this regulation to have been smuggled, shall be liable to confiscation.

At all military stations or cantonments whatsoever, a register to be kept of licensed dealers in drugs and liquors

XLVII. At all military stations or cantonments whatsoever, a register shall be duly kept by the commissariat or other officer in charge of the police, or by the station staff officer, as the case may be, of all persons licensed to deal in spirituous or fermented liquors or intoxicating drugs within the limits of such station or cantonment. No shops for this purpose shall be established but under the express permission of the commanding officer, who shall fix their respective sites; and in front of each a board, containing a notice of licence in English and the language of the particular part of the country, shall be conspicuously fixed. Any person failing to apply for such registry, or to affix such notice of licence, shall, if convicted of selling such liquors or drugs, be liable to punishment, as provided in Clause Second of Section XVI. of this regulation, with the exception of corporal punishment for the first offence.

Notice of licence to be affixed to shops.

Penalty if convicted of selling without such registry or notice.

APPENDIX.

(A.)

I, A. B., appointed to the charge of the military police at , under the provisions of Regulation VII. of 1832, solemnly swear that I will, to the best of my ability, preserve the peace within the limits of my

See Act XXI, 1837.

jurisdiction; that I will act with impartiality and integrity, and not exact or receive, directly or indirectly, any fee, reward, or emolument whatsoever in the execution of, or on account of, any matter relating to the duties of my office, excepting such as the orders of the Governor in Council do or may expressly authorize; and that I will perform the duties of my office according to the best of my knowledge, abilities, and judgment, conformably to the regulations that have been or may be passed by the Governor in Council.

SO HELP ME GOD.

(B.)

Whereas (here enter name, caste or religion, professsion, &c., so particularly as to prevent mistake) stands charged, on the *oath* (*or* solemn declaration) of , with (here specify particularly the cause of apprehension), you are hereby directed to apprehend the said and produce him before me. In this fail not.

Officer in immediate charge of the police under Regulation VII., 1832.

(C.)

SIR,—

I have the honour to transmit to you the enclosed summons, which I request that you will countersign and cause to be duly served and returned to me, endorsed by the party summoned with his acknowledgment.

I am, &c.

(D.)

SIR,—

A. B., inhabitant of C. D. (caste, profession, &c.), having been fined, under Section XI., Regulation VII. of 1832, in the amount of rupees, and not having paid the fine, and (there being no property belonging to the said A. B. within the limits of this station), or (such property as has been found belonging to the said A. B. within the limits of this station having been sold and produced the sum of rupees only), I have the honour to request that the fine above mentioned, or (the residue unpaid of the fine above mentioned), may be realized from any property or effects of the said A. B. within your jurisdiction, and the amount remitted to me.

I am, &c.

(E.)

I, A. B., solemnly swear that I will try, decide, and determine all suits referred to me under Clause Fourth, Section XXI., Regulation VII. of 1832, to the best of my ability and judgment, without partiality, favour, or affection, and that I will not, directly or indirectly, receive, or knowingly allow any other person to receive for me, any money or effects of any kind on account of any suit that may come before me for decision or shall have been decided by me. I will strictly adhere to all the rules prescribed in the regulations enacted by Government for my guidance, and I will in all respects truly and faithfully execute the trust reposed in me.

(F.)

Form of Certificate.

I hereby certify that (here enter name, caste, age, rank, trade or profession) was (a native officer or soldier, or a military person of the description specified in Section XIII., Regulation VII., 1832), on the day of , 18 (here enter the date of the cause of action having arisen), and that he continued to be so on the (here enter the date of the institution of the suit).

(G.)

SIR,—

A charge of gross partiality having been received by this court against a punchayet, assembled by the officer in charge of the military police at to try (here specify the cause of action and names of the parties as appearing in the award), I have the honour to inform you of the same, in order that execution of their award may be suspended until the said charge has been inquired into and the result communicated to you.

I am, &c.

(H.)

SIR,—

With reference to my letter under date I have the honour to inform you that the charge of gross partiality preferred against the punchayet which tried (here specify the cause of action and names of the parties) not having been proved, there is no longer any cause why the award should not be carried into execution, (or has been proved, and the award of the said punchayet annulled by the court).

I am, &c.

(J.)

To the of the zillah of

Name, Caste, and Trade or Profession of the Person sent.	Name of his Native Place, and of the Zillah in which it is situated.	Cause for which he is sent.	Hour and Date on which he set out.	Names of Prosecutors or Witnesses accompanying.	List of Documents accompanying.

(K.)

Whereas information has been laid on *oath* before me, by , that smuggled spirituous or fermented liquors or intoxicating drugs are

concealed in (name and describe particularly the house or other place, so as to prevent mistake), you are hereby commanded to make diligent search for the same, forcing open, if need be, any locks or other fastenings within the said premises, and to bring away and deliver to me any spirituous or fermented liquors or intoxicating drugs there found, for which this is your warrant.

A. B.,
Officer in immediate charge of the police,
under Regulation VII., 1832.

A.D. 1832. REGULATION VIII.

A REGULATION *for rescinding Clause Second, Section VII., and Section VIII., Regulation IV.*, 1821: PASSED *by the Right Honourable the Governor in Council of Fort St. George, on the 4th May*, 1832, *corresponding with the 24th of Chitteri of the year Nandana*, 1755*th year of Saliwahana, and with the 2nd of Zilhijja*, 1247 *Hijra.*

Preamble.

WHEREAS the provisions contained in Clause Second, Section VII., Regulation IV., 1821, by which magistrates are relieved from taking written evidence in the investigation of complaints preferred before them under Sections XXXII. and XXXIII, Regulation IX., 1816, have been found to operate injuriously, by rendering ineffective the powers of revision conferred on the Court of Circuit by Clause Second, Section XL., Regulation IX., 1816; and whereas the provisions of Section VIII., Regulation IV., 1821, by which the returns of certain punishments adjudged by magistrates are excluded from the calendar prescribed in the latter part of Clause First, Section XL., Regulation IX., 1816, have been found open to the same objection, the following rules have been enacted, to be in force from the date of their promulgation.

Clause Second, Section VII., and Section VIII., Regulation IV., 1821, rescinded.

II. Clause Second, Section VII., and Section VIII., Regulation IV., 1821, are hereby rescinded.

In investigations under Sections XXXII. and XXXIII., Regulation IX., 1816, magistrates to take down in writing the complaint, the material evidence, and the defence.

III. *First.* In the investigation of complaints preferred under the provisions of Sections XXXII. and XXXIII., Regulation IX., 1816, magistrates are required to take down in writing the complaint, and so much of the evidence as shall be material, together with the defence of the accused.

Which shall accompany the calendar.

Second. The original proceedings, described in Clause First of this section, shall accompany the calendars prescribed by Clause First, Section XL., Regulation IX., 1816; and the *Court of Circuit* shall have authority to issue thereupon the orders described in Clause Second of that section.

A.D. 1832. REGULATION IX.

A REGULATION *for the Punishment of false Accusations preferred to a Head of District Police, or Police Officer vested with the Powers of a Head of District Police:* PASSED *by the Right Honourable the Governor in Council of Fort St. George, on the 22nd May,* 1832, *corresponding with the 11th of Vyasi of the year Nandana,* 1755*th year of Saliwahana, and with the 20th of Zilhijja,* 1247 *Hijra.*

Preamble.

WHEREAS false and malicious accusations of crimes and offences are frequently preferred to the native police officers, and it is expedient to provide specially for the punishment of persons preferring such false and malicious accusations, the Right Honourable the Governor in Council has therefore enacted this regulation, to be in force from the date of its promulgation.

When charges wilfully false and malicious are preferred to a head of police, the complainant to be forwarded to the *Criminal* Court, and, upon conviction, sentenced to imprisonment, not exceeding six months.

II. Whenever any charge preferred to a head of district police, or police officer specially vested with the powers of a head of district police, under the provisions of Section III., Regulation IV., 1821,* shall appear to be wilfully false and malicious, the police officer shall forward the party by whom the charge shall have been preferred to the *Criminal Court,* and, upon conviction, the *criminal judge, joint criminal judge, or native criminal judge,* shall sentence him to such period of imprisonment as, on consideration of the apparent motives and tendency of the said charge, shall appear proper, not exceeding six months.

* Or to an ameen of police. See Sec. vi., Reg. XIII., 1832.

A.D. 1832. REGULATION X.

[FRAMED UPON REGULATION XIV., 1816, OF THE BENGAL CODE.]

A REGULATION†, *to enable the Criminal Judges, Joint Criminal Judges, Native Criminal Judges, and Magistrates in charge of the Public Gaols, to maintain good Order and Discipline in those Gaols, and among the Prisoners employed on the Public Roads or other Public Works:* PASSED *by the Right Honourable the Governor in Council of Fort St. George, on the 14th August,* 1832, *corresponding with the 1st of Avani of the year Nandana,* 1755*th year of Saliwahana, and with the 16th of Rabi-ul-Awal,* 1248 *Hijra.*

Preamble.

WHEREAS it is necessary to vest the criminal judges, joint criminal judges, native criminal judges and magistrates with authority to punish

† By Secs. xlviii. and xlix., Act VII., 1843, the charge of the gaols is placed under the Auxiliary Judge or Session Judge. For the powers of officers in charge of convicts see Reg. I., 1833. Act XVIII., 1845, provides for the punishment of offences committed by convicts sentenced to imprisonment for life.

certain offences when committed by prisoners under their charge, with a view to maintain good order and discipline in the public gaols and other authorized places of confinement, and to enforce the due observance of the prescribed rules for the employment of prisoners, the following regulation has been enacted, to be in force from the date of its promulgation.

See Secs xlviii. and xlix., Act VII., 1843.

By what rules for the management of gaols officers in charge are to be guided.

II. The *criminal judges, joint criminal judges, native criminal judges and magistrates* who have charge of the public gaols, shall be guided by the rules which have been prescribed by the Governor in Council or Court of Foujdarry Adawlut for the better management of those gaols, and by such rules for the same purpose as may be hereafter sanctioned by the Governor in Council, and transmitted for their guidance by the Court of Foujdarry Adawlut.

And by what rules for the treatment of prisoners employed on the public roads or other public works.

III. The *criminal judges, joint criminal judges, native criminal judges and magistrates* who have charge of prisoners employed on the public roads or other public works, shall in like manner be guided by any rules for the treatment of such prisoners which have been, or may be hereafter, transmitted to them by the Court of Foujdarry Adawlut, with the sanction of Government.

Officers in charge authorized to punish certain offences committed by prisoners on a summary inquiry.

IV. For the purpose of enabling the *criminal judges, joint criminal judges, native criminal judges and magistrates* to maintain good order and discipline among the prisoners confined in the public gaols, or other authorized places of confinement, and to enforce a due observance of the prescribed rules for the employment of the prisoners under their charge, they are hereby vested with authority to punish, on a summary inquiry, the offences specified in the following section of this regulation.

Specification of offences which officers in charge are empowered to punish under the preceding section.

V. *First.* A contumacious refusal to work by any prisoner sentenced to hard labour, or, though not so sentenced, who may be subject to labour, under any provisions in the regulations, or under the discretion declared to be vested in the officers in charge of the public gaols by the orders of the Court of Foujdarry Adawlut, with respect to prisoners not exempted from labour by the sentences of the Criminal Courts, and not incapable of bodily labour from age, sickness, or other infirmity.

Second. Wilful neglect and indolence in the performance of any prescribed work by a prisoner subject to labour, as described in the above clause, especially after previous admonition.

Third. Wilful disobedience to any of the written rules for the observance of prisoners and internal economy of a public gaol, which may have been translated in the current language of the country, and suspended on a board within the gaol, for general information, as directed in the gaol rules now in force.

Fourth. Refractory behaviour by prisoners; such as resistance to the gaoler, guards, and other public officers, in the regular discharge of their proper functions; abusive language to any such officers; and, generally, any culpable behaviour towards them which may not involve a serious act of criminalty, such as should be brought before the *Court of Circuit.*

Fifth. Any other instance of disorderly conduct by a prisoner; such as riot, insurrection, attempt to escape, taking off or loosening, or attempting

to loosen, by filing, cutting, or otherwise, his own irons, or those of other prisoners, with a view to escape; conspiring with other prisoners for the purpose of insurrection or escape, or for any other criminal purpose; abusing or assaulting another prisoner; and, generally, any misconduct committed by a prisoner whilst in custody, which, under the regulations in force, may not be properly cognizable by the *Court of Circuit.*

In what manner and to what extent officers in charge of prisoners may punish the offences specified.

VI. *First.* The powers vested in the *criminal judges, joint criminal judges, native criminal judges and magistrates* for the punishment of the offences specified in the preceding section, which, on a summary inquiry, may appear to have been committed by any of the prisoners under their charge, are declared to be as follows:

Contumacious refusal to work, or wilful neglect and indolence in the performance of any prescribed work, how punishable.

Second. In cases of contumacious refusal to work, or of wilful neglect and indolence in the performance of any prescribed work, within the First or Second Clause of Section V. of this regulation, the *criminal judge, joint criminal judge, native criminal judge or magistrate* may cause the prisoner to be punished by stripes, not exceeding sixty, with a cat-o'-nine-tails; and in the instance of a prisoner's pertinaciously refusing to work, may likewise order his diet allowance to be reduced, in such degree as may be consistent with his support, until he shall perform the work required from him.

What punishment may be inflicted for the offences specified in the Third, Fourth, and Fifth Clauses of the preceding section.

Third. The offences specified in the Third, Fourth, and Fifth Clauses of the preceding section shall be punishable, according to the nature and circumstances of the case, by stripes with a cat-o'-nine-tails, not exceeding 150, or by close, and, as far as practicable, by solitary confinement.

What record to be kept of the summary inquiries and convictions provided for by this regulation.

VII. It shall not be necessary to make a detailed record of the evidence, or of any part of the proceedings held in the summary inquiries authorized by this regulation, nor shall it be requisite to examine witnesses upon *oath*, except in cases of a serious nature, involving offences specifically provided for by the general rules in force for the administration of criminal justice;* but a record shall be kept of every summary conviction and punishment, stating the name of the prisoner, the offence charged against him, the substance of the evidence and conviction, or the personal view of the *criminal judge, joint criminal judge, native criminal judge and magistrate,* when the facts of the case may have taken place within his view, and the punishment ordered, with the date of the order, to be signed by the public officer by whom it may be passed. The record, so authenticated, shall be kept ready for the inspection of the *judge of circuit* on his visiting the gaol *at the ensuing gaol delivery,* that a reference may be made to it in the event of any complaints being preferred by the prisoners. Should the *judge of circuit* see cause to disapprove the order of the *criminal judge, joint criminal judge, native criminal judge or magistrate,* in any instance, he will notice the same to him, with any instructions which may appear necessary, and may be consistent with the regulations in force.

See Sec. iv. Reg. I., 1833.

* See Act XVIII., 1845

The authenticated records to be ready for inspection of the judge of *circuit,* who may visit the gaol at the ensuing *gaol delivery.*

Judge of *circuit* how to proceed if he disapproves of the order of the officers in charge.

See Sec. xlix, Act VII., 1843.

A.D. 1832. REGULATION XI.

[FRAMED UPON REGULATION V., 1817, OF THE BENGAL CODE.]

A REGULATION* *for declaring the Rights of Government and of Individuals with respect to hidden Treasure, and for prescribing the Rules to be observed on discovery of such Treasure:* PASSED *by the Right Honourable the Governor in Council of Fort St. George, on the* 17*th September*, 1832, *corresponding with the* 4*th of Prattasi of the year Nandana*, 1755*th year of Saliwahana, and with the* 21*st of Rabi-us-sani*, 1248 *Hijra.*

Preamble.

WHEREAS the provisions of the Mahomedan and Hindoo laws respecting the discovery of hidden treasure differ materially; and whereas it is deemed expedient that an uniform principle should be established for the guidance of persons by whom hidden treasure may be discovered, the following provisions are enacted, to be in force as soon as promulgated throughout the provinces immediately subordinate to the Presidency of Fort St. George.

Hidden treasure, under what circumstances and conditions to become the property of the finder.

II. Whenever any hidden treasure, consisting of gold or silver coin, or bullion, or of precious stones, or other valuable property, may be found buried in the earth, or otherwise concealed within any part of the territories subject to this Presidency, and after due notification, the owner thereof may not be discoverable, such hidden treasure shall become the property of the person or persons who may have found the same, provided it shall not exceed in amount or value the sum of one lac of *Madras* rupees, and provided the finder or finders shall have conformed to the rules prescribed in this regulation.

The finder how to proceed on the discovery of hidden treasure.

III. Whenever any person may find hidden treasure, of the description stated in the foregoing section, he shall give immediate notice thereof to the judge of the zillah or to the *assistant* judge of the auxiliary court within whose jurisdiction the treasure may have been found, and shall at the same time deposit the treasure in the court, with an exact inventory thereof.

Duty of the zillah or *assistant* judges in such cases.

Notification to be issued, and period allowed to claimants to bring forward their claims.

IV. The zillah or *assistant* judge receiving a deposit, as above directed, shall return a receipt for the treasure deposited, after causing the same to be carefully compared with the inventory, and shall issue a public notification in the current languages of the country, to be published and affixed in his own court-house, and in the cutcherry of the collector of the district, requiring all persons who may have any claim of right to the treasure in deposit, to attend in person, or by vakeel, and prove their title thereto, within six months from the date of the notice.

* The powers granted by this regulation were extended to Principal Sudder Ameens by Act XII., 1838.

Collectors of land revenue to bring forward any claim of right which Government may appear to possess to such treasure.

Summary inquiry to be instituted by the judges of Zillah and Auxiliary Courts.

How judgment to be awarded by the judge.

V. It shall be the duty of the collectors of land revenue acting under the instructions of the Board of Revenue, to bring forward and to support, in conformity with the foregoing provision, any claim of right which Government may appear to possess to such treasure. In the event of any claim of right being preferred, either on the part of individuals or of Government, pursuant to the prescribed notification, the judge shall institute a summary inquiry into the claim preferred; and if the title of Government, or other person so claiming the treasure in deposit, or any part thereof, be clearly established, he shall adjudge the same accordingly; subject to reimbursement of all expense incurred by the finder of the treasure, as well as to such compensation for the discovery of it as may, in each case, appear just and reasonable.

What judgment to be passed in cases in which no claim shall be preferred either by Government or by individuals, and the amount may not exceed one lac of *Madras* rupees.

VI. If no claim of right be preferred either by Government or by any individual within the period limited by the notification directed in Section IV. of this regulation, or if the claim or claims so preferred shall not, on a summary inquiry, appear to be well founded, and the amount or value of the hidden treasure found at the same time, or in the same place, shall not exceed one lac of *Madras* rupees, the zillah or *assistant* judge shall adjudge the same to the person or persons who may have discovered the treasure and deposited it in the court, as required by Section II.; subject only to the actual expense which may have been incurred in adopting the measures prescribed by this regulation.

Decision to be passed by the judge in cases in which the amount of treasure shall exceed one lac of *Madras* rupees and no claim of right thereto be established.

VII. If the amount or value of any hidden treasure found at the same time, or in the same place, shall exceed one lac of *Madras* rupees, and no claim of right thereto be established, judgment shall be given, according to the preceding section, in favour of the person or persons who may have discovered and deposited the treasure, to the amount of one lac of *Madras* rupees, and the excess above that sum shall be declared at the disposal of Government.

Persons discovering hidden treasure who shall neglect to give due notice, within one month, shall be considered to have forfeited all right and title to the treasure and compensation.

VIII. If any person discovering hidden treasure of the description specified in Section II. of this regulation, shall not, within one month after finding the same, give notice to the judge of the zillah, or to the *assistant* judge of the auxiliary court, in conformity with Section IV., and make the deposit thereby required, he shall be considered to have forfeited all right and title to the treasure, as well as all claim to a reimbursement of expense, compensation, or reward, under the provisions of this regulation; and the treasure so clandestinely withheld from public investigation shall, on a summary suit by any subsequent claimant of right, and proof of a just title thereto, be adjudged to the legal owner, with interest and costs; or if no private claim be established, shall, on the application of the vakeel of Government, under instructions from the Board of Revenue, be liable to confiscation to Government.

The summary decisions of the judges of the Zillah and Auxiliary Courts shall be open to a summary appeal to the *Provincial* Courts.

IX. The summary decisions of the judges of the zillah or of the *assistant* judges of the auxiliary courts, which may be passed under this regulation, shall be open to a summary appeal to the *Provincial Courts*, under the general rules in force relative to summary appeals.

See Secs. viii and ix., Act VII., 1843.

See Secs. x. and xi., Act VII., 1843.

X. The decisions of *two or more judges of the Provincial Courts* on such appeals shall be final, unless the Court of Sudder Adawlut should, on the face of the decree, or on inspection of any documents exhibited with it, see just and sufficient ground for admitting a second summary appeal to that court, in which case only such further appeal may be admitted and proceeded upon under the general rules in force for summary appeals.

The decision of *two or more judges of the Provincial Courts* on such appeals to be final.

Provision for admitting a second summary appeal before the Sudder Adawlut.

A.D. 1832. REGULATION XII.

A REGULATION *for defining more particularly the different Classes of People who shall be liable to be tried by the Courts of Criminal Judicature established in the British Possessions, for Offences committed in Foreign Territories:* PASSED *by the Right Honourable the Governor in Council of Fort St. George, on the 2nd October,* 1832, *corresponding with the* 19*th of Prattasi of the year Nandana,* 1755*th year of Saliwahana, and with the* 7*th of Jamadi-ul-awal,* 1248 *Hijra.*

Preamble.

WHEREAS doubts have arisen respecting the construction which should be attached to the words "Native subjects of the British Government," employed in Regulation II., 1829; and whereas it is essential to the ends of justice that the necessary definition should be given of those terms, and also that the provisions of that regulation should be extended to certain other classes of persons to be now described, the following rules have been enacted, to be in force from the period of their promulgation.

Classes of persons to which the provisions of Regulation II., 1829, shall be considered applicable.

II. The provisions contained in Regulation II., 1829, for the punishment of crimes committed beyond the British territories in India, shall be considered applicable to the following classes of persons, and to no other.

First. Natural-born subjects of the British Government in India.

Second. Natives of India, who may have become subjects of the British Government in India by the conquest or cession of the places in which they were born, for acts done by them subsequently to the period of such conquest or cession.

Third. Natives of the foreign states of India, in the civil or military service of the British Government in India, while actually in such service, and during six months after they shall have quitted the British territories, or (supposing them to be stationed out of the limits of the British territories) after they shall have quitted the service. Provided, however, that nothing contained in this regulation shall be construed to authorize any of the established courts in the British provinces to take cognizance of any charge against a native military officer, sepoy, trooper, or other person, for which he may have been already tried by a court-martial under the Rules and Articles of War.

Fourth. All persons, other than British-born subjects of His Majesty,

who, being resident within the Company's frontiers, may have purchased any lands or other immovable property, or hired the same for any period exceeding six months, or who may have otherwise fixed, or may hereafter fix, their residence in the Company's territories with the intention of settling therein, or who may in any manner have lived and resided therein for a period of not less than six months.

A.D. 1832. REGULATION XIII.

A REGULATION *to provide for the more effectual Administration of Criminal Justice in certain Cases:* PASSED *by the Right Honourable the Governor in Council of Fort St. George, on the 7th December,* 1832, *corresponding with the* 24*th of Kartikei of the year Nandana,* 1755*th year of Saliwahana, and with the* 14*th of Rajab,* 1248 *Hijra.*

Preamble

WHEREAS it is considered expedient that the provisions of Clause Third, Section IX., Regulation X., 1816, should be modified, with the view of preventing the needless commitment of accused persons for trial before the Court of Circuit; that authority should be given to the judges of circuit to require the dismissal of any native officer employed under the criminal judges and the magistrates for misconduct in the criminal or police department; that provision should be made for the adjudication of solitary imprisonment; that the provisions contained in Section IV., Regulation IV., 1821, authorizing the infliction of corporal punishment by the heads of district police, should be rescinded; that Section XXVIII., Regulation VII., 1802, should be rescinded; that the provisions of Section II., Regulation IX., 1832, should be extended to false charges preferred to ameens of police, appointed under the provisions of Section XL., Regulation XI., 1816; that provision should be made for the punishment of persons guilty of poisoning, maiming, or maliciously killing cattle, of disguising the appearance of ornaments formed of the precious metals with a fraudulent intent, and of receiving property under suspicious circumstances without giving information to the officers of police; that power of rewarding meritorious service in the apprehension of public offenders should be vested in the magistrates and criminal judges; that primary cognizance of culpable neglect on the part of peons in charge of prisoners should be given to the Criminal Court; and that the Court of Foujdarry Adawlut should be authorized to sanction the offer of a conditional pardon without reference to the Governor in Council, the following rules have been enacted, to be in force from the date of their promulgation.

II. [Modification of Clause Third, Section IX., Regulation X., 1816, investigation before committal.]—*Rescinded by Section XXVIII., Act VII.,* 1843, *and new rule enacted in Section XXIX.*

Modified, as regards officers of police, by Sec. XLIX., Act VII., 1843.

III. For misconduct in the criminal or police department, the judge *of circuit* shall have authority to require the dismissal of any native officer employed under the *criminal or joint criminal judge*, the magistrate, or the *native criminal judge*, by a letter, to be addressed to the head of the department; but if those officers shall object to such dismissal, the *judge of circuit* shall submit a report of the case for the final orders of the Court of Foujdarry Adawlut.

Judge *of circuit* authorized to require the dismissal of any native officer for misconduct in the criminal or police department. If objected to, he shall report the case for the final orders of the Foujdarry Adawlut.

IV. *First.* From and after the date of the promulgation of this regulation, it shall be competent to the magistrate, *criminal judge, joint criminal judge, and native criminal judge*, to adjudge, at their discretion, solitary imprisonment in all cases cognizable by those officers respectively.

Solitary imprisonment authorized as a punishment in all cases cognizable by the magistrate, *criminal, joint criminal, and native criminal judges* respectively.

Second. Solitary imprisonment shall be enforced by confining the prisoner in a room well ventilated, where no communication can be had with any person whatever, which room shall be opened only in order to clean it and supply the prisoner with food; provided, however, that when the medical officer shall consider the removal of such prisoner to the hospital to be requisite on account of his health, he shall be so removed for the necessary period.

How to be enforced

V. *First.* In modification of the provisions of Clause First, Section IV., Regulation IV., 1821, it is hereby enacted, that, in the cases therein specified, heads of district police shall have authority to pass sentence of imprisonment, not exceeding ten days, with labour, but not to inflict stripes.

Modification of Clause First, Section IV., Regulation IV., 1821.

Second. In modification of Clause First, Section V., Regulation IV., 1821, it is hereby provided, that, in the cases therein described, heads of district police shall have authority to commute the fine to imprisonment not exceeding three days, without labour.

Modification of Clause First, Section V., Regulation IV., 1821.

VI. From and after the date of the promulgation of this regulation, the provisions of Section II., Regulation IX., 1832, shall be applicable to false charges preferred to ameens of police appointed under the provisions of Section XL., Regulation XI., 1816.

The provisions of Section II., Regulation IX., 1832, extended to false charges preferred to police ameens.

VII. Section XXVIII., Regulation VII., 1802, is hereby rescinded, and the *Courts of Circuit, the criminal, joint criminal, and native criminal judges* are empowered to impose a fine, not exceeding fifty rupees, commutable, if not paid, to imprisonment not exceeding one month, for gross prevarication, or for other contempt of court, in open court; provided, however, that all sentences passed under this section by the *Courts of Circuit* shall be noticed in the remarks in the calendar, and that those passed by the criminal courts shall be entered in their periodical reports.

Section XXVIII., Regulation VII., 1802, rescinded.

Prevarication or other contempt of court, in open court, how punishable by the *Courts of Circuit, Criminal, Joint Criminal, and Native Criminal Judges* respectively.

Sentences passed by the *Circuit Courts* to be noticed in the remarks in the calendars, and those passed by the Criminal Courts to be entered in their periodical reports.

VIII. *First.* Any person or persons convicted before the *criminal, joint criminal, or native criminal judge*, of poisoning or maliciously killing, maiming, or wounding one or more horses, asses, cows, oxen, buffaloes, or other cattle, shall be punishable with imprisonment, not exceeding two years.

Persons convicted before the criminal courts of poisoning or maliciously killing, maiming, or wounding horses or other cattle, how punishable.

Second. Petty cases of the description specified in Clause First of this section shall be punishable by the magistrate and the heads of district

Petty cases of the above description punishable by the magis-

trate and heads of district police.

police by imprisonment, to the extent specified in Section XXXIII., Regulation IX., 1816, and Section V. of this regulation.

Persons convicted before the criminal courts of melting or disguising the appearance of ornaments, &c. formed of the precious metals, with a fraudulent intent, and persons convicted of purchasing, receiving, or altering the appearance of stolen property, offered under suspicious circumstances, how punishable.

IX. Any person or persons charged with melting or disguising the appearance of ornaments, or other articles formed of the precious metals, or jewels, with a fraudulent intent, and any person or persons charged with purchasing, receiving, or altering the appearance of stolen property, offered under suspicious circumstances, without giving information to the head of the village or other police officer, shall, on conviction before the *criminal, joint criminal, or native criminal judge*, be punishable by imprisonment, not exceeding two years.

Power of rewarding meritorious service rendered by police officers or others in the apprehension of public offenders extended to magistrates and *criminal judges*.

X. The power vested in the *Courts of Circuit* by the provisions of Section XXIII., Regulation IX., 1816, of rewarding meritorious service rendered by police officers or others in the apprehension of public offenders, is hereby extended to the magistrates and *criminal judges*.

In modification of Section VIII., Regulation X., 1816, the criminal courts shall have primary cognizance of cases of gross and culpable neglect on the part of persons in charge of prisoners, whereby they may be enabled to escape.

Punishment on conviction.

For connivance, the peons to be committed for trial before the *Court of Circuit*. Punishment on conviction.

XI. *First.* In modification of the provisions of Section VIII., Regulation X., 1816, it is hereby declared that the *criminal judge, joint criminal judge, and native criminal judge* shall have primary cognizance of cases of gross and culpable neglect on the part of peons in charge of prisoners, whereby they may be enabled to effect their escape, and, on conviction, may sentence the offenders to imprisonment, not exceeding six months.

Second. Where connivance on the part of such peons may be ascertained, they shall be committed for trial before the *Court of Circuit*, and, on conviction, be sentenced to imprisonment for not less than two nor more than five years.

Foujdarry Adawlut authorized to sanction the offer of a conditional pardon, without reference to the Governor in Council.

XII. In modification of the provisions of Section XX., Regulation VIII., 1802, it is hereby enacted that the Court of Foujdarry Adawlut shall have authority to sanction the offer of a conditional pardon, without reference to the Governor in Council.

A.D. 1832. REGULATION XIV.

A REGULATION *for extending such Part of the Provisions of Section LXVII. of the Act* 4 *Geo. IV., c.* 81, *as relates to the Penalties prescribed for Purchasing Clothes and other Necessaries from Soldiers, throughout the Provinces subordinate to the Presidency of Fort St. George:* PASSED *by the Right Honourable the Governor in Council of Fort St. George, on the* 21*st December*, 1832, *corresponding with the* 9*th of Margaly of the year Nandana*, 1755*th year of Saliwahana, and with the* 28*th of Rajab*, 1248 *Hijra.*

Preamble.

WHEREAS it has been found that the offence of selling regimental necessaries is prevalent among the Company's troops, and it is deemed

expedient, in order to put a stop to this criminal practice, that the provisions contained in Section LXVII. of the Act 4 Geo. IV., c. 81,* for the punishment of persons purchasing clothes and other necessaries from soldiers, should be extended throughout the provinces subordinate to the Presidency of Fort St. George, and should be made applicable to persons purchasing such articles from native as well as from European troops,—the following rules have been enacted, to be in force from the date of their promulgation.

Persons purchasing or otherwise receiving regimental necessaries from soldiers, European or native, liable to fine.

II. *First.* From and after the date of the promulgation of this regulation, any person who shall knowingly detain, buy, or exchange, or otherwise receive from any soldier or deserter, native as well as European, or any other person, upon any account or pretence whatsoever, any arms, clothes, caps, or other furniture belonging to the East-India Company, or furnished and provided for the use of any troops or forces, native as well as European, serving with the forces of the said Company, or any meat, drink, beer, or other provision provided under any regulations relating thereto, or any such articles belonging to any such soldier or deserter as are generally deemed regimental necessaries, according to the custom of the army, being provided for the soldier and paid for by deductions out of his pay, or shall cause the colour of any such clothes to be changed, shall, on conviction before the *criminal, joint criminal, or native criminal judge* within the limits of whose local jurisdiction the offence may have been committed, be sentenced for every such offence to pay a fine of forty *Madras* rupees.

Persons purchasing articles of forage from troopers or other soldiers liable to fine

Second. From and after the date of the promulgation of this regulation, any person who shall buy or receive any grain, hay, straw, or other forage provided for the use of any horse or horses belonging to the Company's service, from any trooper or other soldier, native as well as European, knowing him to be such, or shall move, procure, counsel, or solicit any such trooper or other soldier, knowing him to be such, to sell or otherwise dispose of any such grain, hay, straw, or other forage as aforesaid, shall, on conviction before the *criminal, joint criminal, or native criminal judge* within the limits of whose local jurisdiction the offence may have been committed, be sentenced for every such offence to pay a fine of forty *Madras* rupees.

Moiety of fine to be given to informer, and if not paid, to be commuted to imprisonment.

Third. Upon payment of the fines adjudicable under the provisions of Clauses First and Second of this section, one moiety thereof shall be given to the informer, and the said fines shall be commutable, if not paid, to imprisonment for three months.

* The Act referred to has been superseded by the 3 & 4 Victoria, c. 37, in the thirty-sixth section of which is an enactment corresponding with that in the section here cited

A.D. 1833. REGULATION I.

A REGULATION *for extending the Provisions contained in Regulation X., 1832, to Officers other than those therein specified, who may be placed in charge of Convicts, and for restricting the Powers of Punishment to be exercised by such Officers according to the pleasure of the Right Honourable the Governor in Council:* PASSED *by the Right Honourable the Governor in Council of Fort St. George, on the 15th of February, 1833, corresponding with the 6th of Masi of the year Nandana, 1755th year of Saliwahana, and with the 24th of Ramzan, 1248 Hijra.*

Preamble.

WHEREAS it is necessary that in particular cases the powers vested in criminal judges, joint criminal judges, and magistrates in charge of the public gaols by Regulation X., 1832, should be conferred upon officers other than those above named who may be placed in charge of convicts, subject to such limitations and restrictions as the Right Honourable the Governor in Council may in each instance deem proper and expedient, the following rules have been enacted, to be in force from the date of their promulgation.

The Governor in Council may confer upon officers other than those named in the preamble of Regulation X., 1832, the powers of punishment created by that regulation.

With certain restrictions, if deemed proper.

II. *First.* From and after the date of the promulgation of this regulation, it shall be competent to the Governor in Council, by an order in council, to confer upon officers other than those named in the preamble to Regulation X., 1832, who may be placed in charge of convicts, the whole or any part of the powers of punishment created by that regulation.

Second. The Governor in Council will, at pleasure, restrict the nature and degree of punishment adjudicable by the officers mentioned in Clause First of this section, within such limits as may be deemed proper and expedient.

See A XVIII., 1845

Convicts, in certain cases, to be made over to the judicial officer from whose gaol they may have been transferred.

Or to such other criminal court as the Governor in Council may direct.

III. In cases of a serious nature, involving offences specifically provided for by the general rules in force for the administration of criminal justice, the offenders shall be made over to the judicial officer from whose gaol they may have been transferred, to be dealt with according to law; and their offences shall be cognizable in the same manner as if committed within the local jurisdiction of such criminal court. Provided, however, that in extraordinary cases, when it may happen that the criminal court from which the convicts were originally removed is so distant as to make this arrangement inconvenient, it shall be competent to the Governor in Council to direct that such offenders shall be made over to the nearest criminal court, who shall thereupon be empowered to deal with them as with other offenders under the provisions of the general regulations.

Provisions of Section VII., Regulation X., 1832, applicable to officers vested with powers of punishment under Section II. of this regulation.

IV. The provisions of Section VII., Regulation X., 1832, shall be applicable to the officers specially vested with powers of punishment under the provisions of Section II. of this regulation.

A.D. 1833. REGULATION II.

A REGULATION *for exempting Females from Corporal Punishment by Stripes:* PASSED *by the Right Honourable the Governor in Council of Fort St. George on the 26th of April,* 1833, *corresponding with the 16th of Chitteri of the year Vijaya,* 1756*th year of Saliwahana, and with the 5th of Zilhijja,* 1248 *Hijra.*

WHEREAS it appears expedient to exempt females from corporal punishment by stripes, the following rule has been enacted, to be in force from the date of its promulgation. Preamble

II. No female shall hereafter be sentenced to corporal punishment by stripes by the magistrates and their assistants, by any of the courts of criminal justice, or by any other authority, to whom the power of adjudicating that punishment may be given by any regulation enacted by this Government. Females exempted from corporal punishment

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A.D. 1833. REGULATION III.

A REGULATION *for conferring upon Sudder Ameens jurisdiction in Criminal Cases, and for extending the Civil Jurisdiction of Registers, Sudder Ameens, and District Moonsifs:* PASSED *by the Right Honourable the Governor in Council of Fort St. George, on the 23rd July,* 1833, *corresponding with the 10th of Adi of the year Vijaya,* 1756*th year of Saliwahana, and with the 4th of Rabi-ul-awal,* 1249 *Hijra.*

WHEREAS the administration of justice in the provinces will be facilitated by conferring upon sudder ameens jurisdiction in criminal cases, and by extending the jurisdiction of the registers, the sudder ameens, and district moonsifs, in regard to the amount and value of property which may be adjudicated by them respectively,—the following rules have been enacted, to be in force from the date of their promulgation. Preamble.

II. *First.* The *criminal, joint criminal, and native criminal judges* are hereby authorized to employ the sudder ameens in the investigation and decision of criminal cases. In the investigation and determination of such cases they shall be guided by the rules laid down for the observance of *criminal judges* in similar cases, and shall exercise the powers conferred upon those officers by the regulations, provided that cases committable for trial before the *Court of Circuit* shall not be cognizable by sudder ameens, and that those judges shall have authority* to overrule such judgments passed by the sudder ameens attached to their courts respectively as may

Criminal, joint criminal, and native criminal judges authorized to employ the sudder ameens in the investigation and decision of criminal cases.

To exercise the powers conferred upon *criminal judges*

Exception.

* This power is vested in the Session Judges by Sec. xxxvi., Act VII., 1843

Not to be employed at any other than the sudder station without the authority of the Foujdarry Adawlut. Not to have jurisdiction in cases where an American or European is concerned, nor over the offences specified in Regulation III., 1819.

be contrary to the regulations and to justice, and that no sudder ameens shall be employed at any other than the station of the court, except under the authority of the Foujdarry Adawlut and with the sanction of Government. Provided, also, that they shall not have jurisdiction in cases where an American or European is concerned, nor over the offences specified in Regulation III., 1819.

Oath to be taken by the sudder ameens;

or to subscribe a solemn declaration to the same effect.

Second. Previous to the execution of the duties of their office, sudder ameens shall take and subscribe, before the officer presiding in the criminal courts to which they are attached, an oath, according to the form prescribed in the Appendix to this regulation, or he shall subscribe a solemn declaration to the same effect.

III. [Jurisdiction of registers extended to 3,000 rupees.]—*Superseded by the cessation of the office of register, and by Section IV., Act VII.*, 1843.

Jurisdiction of sudder ameens extended to 2,500 rupees.

IV. In modification of the provisions of Section III., Regulation II., 1821, *zillah, assistant, and native* judges are hereby authorized to refer* to the sudder ameens for trial and decision any suits filed in their respective courts for land exempt from the payment of revenue, the annual produce of which shall not exceed two hundred and fifty *Madras* rupees, and for land subject to the payment of revenue in money or in kind, the annual produce of which shall not exceed two thousand five hundred *Madras* rupees, or for other real property not of the description above specified, or for sums of money, or other personal property, the value or amount of which shall not exceed two thousand five hundred *Madras* rupees.

Jurisdiction of district moonsifs extended to 1,000 rupees.

V. The jurisdiction of district moonsifs, as defined in Section XI., Regulation VI., 1816, is hereby extended in regard to suits of the description specified in Clause Second of that section to one hundred *Madras* rupees, and in regard to suits of the descriptions specified in Clauses Third, Fourth, and Fifth of that section, to one thousand *Madras* rupees.

Sudder ameens guilty of gross acts of misconduct to be suspended, and the circumstances of the case reported, through the *Provincial Court*, to the Sudder Adawlut.

VI. Whenever a sudder ameen may be guilty of any gross act of misconduct, the *zillah, assistant, and native judges* are hereby authorized to suspend him from his office, but they shall report the circumstances of the case without delay to the *Provincial Court* for the final determination of the court of Sudder Adawlut. See Sec. xvi Act VII., 1843.

APPENDIX.

Form of Oath to be administered to Sudder Ameens invested with Criminal Jurisdiction.

See Act XXI., 1837.

I, A. B., sudder ameen of the Zillah Court of , solemnly swear that I will act with impartiality and integrity, and will not exact or receive, or knowingly allow any other person to exact or receive, directly or indirectly, any fee, reward, or emolument whatsoever in the execution of or on account of any matter relating to the duties of my office, except-

* By Sec. i., Act IX., 1844, suits within the competency of a Sudder Ameen to decide are ordinarily to be instituted in their courts. See Sec. iii. of that Act.

ing such as the orders of the Governor in Council do or may expressly authorize, and that I will perform the duties of my office according to the best of my knowledge, abilities, and judgment, conformably to the regulations that have been or may be passed by the Governor in Council.

A.D. 1833. REGULATION IV.

A REGULATION *for establishing within the Limits of the Zillah of Chingleput the Office of the Additional Government Commissioner for Claims withdrawn from the Carnatic Fund:* PASSED *by the Right Honourable the Governor in Council of Fort St. George, on the 23rd July,* 1833.

[The office of Carnatic Commissioner is now extinct.]

A.D. 1834. REGULATION I.

A REGULATION *for the Punishment of Persons convicted of Treason or Rebellion:* PASSED *by the Right Honourable the Governor in Council of Fort St. George, on the 22nd February,* 1834, *corresponding with the 13th of Masi of the year Vijaya,* 1756*th year of Saliwahana, and with the 12th of Sharal,* 1249 *Hijra.*

Preamble.

WHEREAS Regulation XX. of 1802, which provides for the trial of persons charged with "treason, rebellion, or other crime against the state," does not declare the punishment to which persons convicted of such crimes shall be liable; and whereas it appears that the Mahomedan law does not denounce a specific penalty for such crimes, but leaves them to be punished at the discretion of the ruling authority; and whereas it is necessary for the due maintenance of the just authority of government, that persons convicted of "treason or rebellion" should be liable to capital punishment,—the Governor in Council of Fort St. George has therefore enacted this regulation.

Persons convicted of treason or rebellion liable to a sentence of death.

II. It is hereby declared, that all persons who may be convicted of treason or rebellion committed after the promulgation of this regulation, either by the ordinary courts of judicature, or before a special commission appointed under *Regulation XX.*, 1802, shall be liable to a sentence of death.

Substitute Act V., 1841.

Foujdarry Adawlut may pass mitigated sentence.

All sentences shall receive the sanction of the Right Honourable the Governor in Council.

III. Nothing, however, in this regulation is meant to restrict the Foujdarry Adawlut from passing such other mitigated sentence as may appear to them necessary and just; provided always, that no sentence passed under this regulation shall be carried into effect without previous sanction of the Right Honourable the Governor in Council, as prescribed in *Section V., Regulation XX.*, 1802.

Substitute Sec. v., Act V., 1841.

A.D. 1834. REGULATION II.

A REGULATION *for rescinding Section III., Regulation II. of* 1828, *and such Parts of any other Regulations in force as authorize District Moonsifs to receive, as a Compensation for their Trouble in the Trial of Suits, the Amount of the Institution-Fee levied thereon:* PASSED *by the Governor-General of India in Council on the 9th of August,* 1834, *corresponding with the 27th of Adi of the year Jaya,* 1757*th year of Saliwahana, and with the 2nd of Rabi-us-sani,* 1250 *Hijra.*

Preamble.

WHEREAS the system of remunerating the district moonsifs by fees on the amount or value in dispute, in every suit instituted before them which shall be decided by them on the merits or adjusted by razeenamah, has been found open to the most serious objections; and as it is considered proper that those officers should receive from Government such monthly allowances as may be hereafter fixed, the following rules have been enacted, to be in force from the date of their promulgation.

Section III., Regulation II. of 1828, Section V., Regulation II. of 1821, Section LIX., Regulation VI. of 1816, and all other clauses of the regulations which authorize the payment of fees to district moonsifs, rescinded.

II. Section III., Regulation II. of 1828, Section V., Regulation II. of 1821, Section LIX., Regulation VI. of 1816, and such parts of any other regulations in force as authorize district moonsifs to receive as a compensation for their trouble in the trial of suits, and for the expense of such establishment as may be necessary for the discharge of their official duties, the sum of one anna in the rupee on the amount or value in dispute in every suit before them which shall be decided by them on the merits, or adjusted by razeenamah, are hereby rescinded.

See also Act V., 1835.

District moonsifs to receive an allowance to be fixed by Government.

III. From and after the date of the promulgation of this regulation, district moonsifs shall receive such monthly allowances only as may hereafter be fixed for their personal salary and the expense of their establishments.

Monthly statements of the institution-fees, with the amount levied, to be sent to the zillah judges.

IV. The district moonsifs shall, as hitherto required, send to the zillah judges exact monthly statements of the amount of institution-fees levied by them, under the provisions of Clause First, Section XVI., Regulation VI. of 1816, revived* by Section II. of this regulation, and remit

* It had been rescinded by Sec. iii., Reg. II., 1828, which is rescinded by Sec. ii. of this regulation.

the amount to the zillah* judges, to be by them credited in their public accounts.

V. From and after the date of the promulgation of this regulation, whenever a suit before a district moonsif shall be adjusted by razeenamah before the completion of the pleadings, the amount of the institution-fee shall be repaid to the party by the zillah* judge upon the production of a certificate from the moonsif that the suit has been so adjusted.

Amount of institution-fee to be refunded to the party in all cases settled by razeenamah before the completion of the pleadings.

* See Section xvii., Act VII., 1843.

END OF THE REGULATIONS.

ACTS OF THE GOVERNMENT OF INDIA,

IN OPERATION UNDER THE

PRESIDENCY OF FORT SAINT GEORGE.

ACTS OF THE GOVERNMENT OF INDIA,

IN OPERATION UNDER THE

PRESIDENCY OF FORT ST. GEORGE.

A.D. 1834. ACT II.

PASSED *by the Right Honourable the Governor-General of India in Council, on the 20th November*, 1834.

The several secretaries to Government at the three Presidencies to have equal powers with the chief secretaries

BE it enacted, that each of the secretaries to the Government of India and to the Government of Fort William in Bengal shall be competent to perform all the duties, and to exercise all the powers which by any Act of Parliament or any Regulation now in force are assigned to the chief secretary to the Government of Fort William in Bengal, and that each of the secretaries to the Government of Fort St. George and Bombay respectively shall be competent to perform all the duties, and to exercise all the powers, which by any Act of Parliament or any Regulation now in force are assigned to the chief secretaries to the Governments of Fort St. George and Bombay respectively.

A.D. 1835. ACT V.

PASSED *by the Right Honourable the Governor-General of India in Council, on the 13th March*, 1835.

District moonsifs not to receive fees or other emoluments than salary

BE it enacted, that such parts of any of the Regulations in force as authorize the district moonsifs within the Presidency of Fort St. George to receive any fee or commission for duties performed by them are hereby rescinded; and district moonsifs within that Presidency shall not be entitled to receive any emolument whatever beyond their fixed monthly allowances.

A.D. 1835. ACT X.

PASSED *by the Honourable the Governor-General of India in Council, on the 6th July*, 1835.

Government Gazette proof of the Acts of each Government.

BE it enacted, that the production of a Government Gazette of any Presidency, containing an Act purporting to have been passed by the Governor-General in Council, shall be held in all courts sufficient proof that such Act has been so passed.

A.D. 1835. ACT XI.

PASSED *by the Honourable the Governor-General of India in Council, on the 3rd August*, 1835.

I. [Repeal of certain regulations of Bengal and Bombay.]

Declaration to be made by the printers and publishers of periodicals containing news.

II. *First.* And be it enacted, that after the said 15th day of September, 1835, no printed periodical work whatever, containing public news or comments on public news, shall be published within the territories of the East-India Company, except in conformity with the rules hereinafter laid down.

Second. The printer and the publisher of every such periodical work shall appear before the magistrate of the jurisdiction within which such work shall be published, and shall make and subscribe, in duplicate, the following declaration:—

"I, *A. B.*, declare that I am the printer (or publisher, or printer and publisher) of the periodical work entitled , and printed (or published, or printed and published) at ." And the last blank in this form of declaration shall be filled up with a true and precise account of the premises where the printing or publication is conducted.

Third. As often as the place of printing or publication is changed, a new declaration shall be necessary.

Fourth. As often as the printer or the publisher who shall have made such declaration as is aforesaid shall leave the territories of the East-India Company, a new declaration from a printer or publisher, resident within the said territories, shall be necessary.

Penalty for breach of the foregoing rule.

III. And be it enacted, that whoever shall print or publish any such periodical work as is hereinbefore described, without conforming to the rules hereinbefore laid down, or whoever shall print or publish, or shall cause to be printed or published, any such periodical work knowing that the said rules have not been observed with respect to that work, shall, on

conviction, be punished with fine to an amount not exceeding 5,000 rupees, and imprisonment for a term not exceeding two years.

Declaration how to be authenticated, where deposited, and how referred to.

IV. And be it enacted, that each of the two originals of every declaration, so made and subscribed as is aforesaid, shall be authenticated by the signature and official seal of the magistrate before whom the said declaration shall have been made, and one of the said originals shall be deposited among the records of the office of the said magistrate, and the other original shall be deposited among the records of the Supreme Court of Judicature, or other king's court within the jurisdiction of which the said declaration shall have been made; and the officer in charge of each original shall allow any person to inspect that original, on payment of a fee of one rupee, and shall give to any person applying a copy of the said declaration, attested by the seal of the court which has the custody of the original, on payment of a fee of two rupees.

Copy of declaration to be evidence

V. And be it enacted, that in any legal proceeding whatever, as well civil as criminal, the production of a copy of such a declaration as is aforesaid, attested by the seal of some court empowered by this Act to have the custody of such declarations, shall be held (unless the contrary be proved) to be sufficient evidence as against the person whose name shall be subscribed to such declaration, that the said person was printer or publisher, or printer and publisher (according as the wording of the said declaration may be), of every portion of every periodical work whereof the title shall correspond with the title of the periodical work mentioned in the said declaration.

Declaration of having ceased to publish.

VI. Provided always, that any person, who may have subscribed any such declaration as is aforesaid, and who may subsequently cease to be the printer or publisher of the periodical work mentioned in such declaration, may appear before any magistrate, and make and subscribe, in duplicate, the following declaration.

"I, *A. B.*, declare that I have ceased to be the printer (or publisher, or printer and publisher) of the periodical work entitled ."

And each original of the latter declaration shall be authenticated by the signature and seal of the magistrate before whom the said latter declaration shall have been made, and one original of the said latter declaration shall be filed along with each original of the former declaration; and the officer in charge of each original of the latter declaration shall allow any person applying to inspect that original, on payment of a fee of one rupee, and shall give to any person applying a copy of the said latter declaration, attested by the seal of the court having custody of the original, on payment of a fee of two rupees; and in all trials in which a copy, attested as is aforesaid, of the former declaration shall have been put in evidence, it shall be lawful to put in evidence a copy, attested as is aforesaid, of the latter declaration; and the former declaration shall not be taken to be evidence that the declarant was, at any period subsequent to the date of the latter declaration, printer or publisher of the periodical work therein mentioned.

Every printed paper

VII. And be it enacted, that every book or paper printed after the

of book to bear the names of the printer and publisher.

said 15th day of September, 1835, within the territories of the East-India Company, shall have printed legibly on it the name of the printer and of the publisher, and the place of printing and of publication; and whoever shall print or publish any book or paper otherwise than in conformity with this rule, shall, on conviction, be punished by fine to an amount not exceeding 5,000 rupees, and by imprisonment for a term not exceeding two years.

Penalty.

Declaration to be made by a proprietor of a press.

VIII. And be it enacted, that after the said 15th day of September, 1835, no person shall, within the territories of the East-India Company, keep in his possession any press for the printing of books or papers, who shall not have made and subscribed the following declaration before the magistrate of the jurisdiction wherein such press may be; and whoever shall keep in his possession any such press, without making such a declaration, shall, on conviction, be punished by fine to an amount not exceeding 5,000 rupees, and by imprisonment for a term not exceeding two years.

Penalty.

"I, *A. B.*, declare that I have a press for printing at ."

And this last blank shall be filled up with a true and precise description of the premises where such press may be.

Penalty for declaring falsely

IX. And be it enacted, that any person who shall, in making any declaration under the authority of this Act, knowingly affirm an untruth, shall, on conviction thereof, be punished by fine to an amount not exceeding 5,000 rupees, and imprisonment for a term not exceeding two years.

A.D. 1835. ACT XII.

PASSED *by the Honourable the Governor-General of India in Council, on the 3rd August*, 1835.

Rescission of Regs. IV., 1829, and IV., 1830.

BE it enacted, that Regulation IV., 1829, of the Madras code, entitled A Regulation for annulling the Sunnuds-i-Milkeut Istimrar issued for the zemindarees of Nozeed and Ellore, in the zillah of Masulipatam, and for empowering the Government to issue new sunnuds for the same; and Regulation IV., 1830, of the same code, entitled A Regulation for suspending the provisions of the Regulation IV., 1829, be rescinded.

A.D. 1835. ACT XV.

PASSED *by the Honourable the Governor-General of India in Council, on the 3rd August*, 1835.

Rescission.

I. *First.* BE it enacted, that from the 1st day of September, 1835, Section XVIII., Regulation V. of 1802 of the Madras code, be rescinded.

Second. Be it enacted, that if a witness duly summoned by the Court of Sudder Adawlut of Fort St. George shall not attend, or shall refuse to give evidence in the manner prescribed by the existing law, that court may impose on such witness a fine, not exceeding 500 rupees, and may commit him to the gaol of the Zillah Court nearest to the presidency, until he shall consent to give his evidence in the manner prescribed. And if the said witness shall not pay the fine imposed on him, it shall be lawful for the said Court of Sudder Adawlut to direct him to be kept in confinement for a further term not exceeding three months.

Punishment of recusant witnesses.

See Secs. xlviii. and xlix., Act VII., 1843.

II. If any person shall be guilty of contempt of the Court of Sudder Adawlut in open court, the court may immediately punish the offender by fining him in a sum not exceeding 500 rupees, or by committing him to custody in the gaol of the Zillah Court nearest to the presidency, for a term not exceeding six months.

Punishment for contempt of the Sudder Court.

III. If it shall appear to the Court of Sudder Adawlut that any person has been guilty of wilful and corrupt perjury in any matter depending in that court, that court may immediately commit the offender to custody, and transmit him to the Zillah Court nearest to the presidency, in order to his being brought to trial before the *Court of Circuit of the division in which such Zillah Court may be situated;* and such person shall be dealt with in the same manner as if the perjury had been committed within the limits of the local jurisdiction of such *Court of Circuit.*

Punishment for perjury before the Sudder Court.

A.D. 1835. ACT XVII.

PASSED *by the Honourable the Governor-General of India in Council, on the* 17*th August*, 1835.

BE it enacted, that from the 1st day of September, 1835, the undermentioned silver coins only shall be coined at the mints within the territories of the East-India Company: a rupee, to be denominated the Company's rupee; a half rupee, a quarter rupee, and a double rupee; and the weight of the said rupee shall be 180 grains troy, and the standard shall be as follows:

Weight, standard, and denomination of silver coins.

See Act XXI., 1838.

$\frac{11}{12}$ or 165 grains of pure silver,
$\frac{1}{12}$ or 15 grains of alloy,

and the other coins shall be of proportionate weight and of the same standard.

II. And be it enacted, that these coins shall bear on the obverse the head and the name of the *reigning* sovereign of the United Kingdom of Great Britain and Ireland, and on the reverse, the designation of the coin in English and Persian, and the words "East India Company" in English,

What impression to bear.

See Act XXXI., 1837.

with such embellishment as shall from time to time be ordered by the Governor-General in Council.

What may be a legal tender.

III. And be it enacted, that the Company's rupee, half rupee, and double rupee, shall be a legal tender in satisfaction of all engagements, provided the coin shall not have lost more than two per cent. in weight, and provided it shall not have been clipped, or filed, or have been defaced otherwise than by use.

Relative value of the Company's with other rupees.

IV. And be it enacted, that the said rupee shall be received as equivalent to the Bombay, Madras, Furruckabad, and Sonat rupees, and to fifteen-sixteenths of the Calcutta sicca rupee, and the half and double rupees respectively shall be received as equivalent to the half and double of the above-mentioned Bombay, Madras, Furruckabad, and Sonat rupees, and to the half and double of fifteen-sixteenths of the Calcutta sicca rupee.

How the quarter rupee may be legally tendered.

V. And be it enacted, that the Company's quarter rupee shall be a legal tender only in payment of the fraction of a rupee.

Provisoes

VI. Provided, that if in any contract for the payment of Calcutta sicca rupees, it shall have been specially stipulated that if payment be made in the territories of the Madras, Bombay, or Agra presidency, it shall be made in the rupees now current in those presidencies respectively, at a different rate from that above provided with reference to the Calcutta sicca rupee, the contract shall be satisfied by payment within those presidencies of Company's rupees of the amount of Furruckabad, Madras, or Bombay rupees so especially stipulated; provided also, that if payment of the principal or interest of the public debt be made for the convenience of creditors at any public treasury other than as stipulated in the notes and engagement of the Government, it shall be competent to the Government to make such payments at the same exchange as heretofore.

Weight and standard of gold coins.

VII. And be it enacted, that the under-mentioned gold coins only shall henceforth be coined at the mints within the territories of the East-India Company.

First. A gold mohur or 15-rupee piece of the weight of 180 grains troy, and of the following standard; viz.

$\frac{11}{12}$ or 165 grains of pure gold,
$\frac{1}{12}$ or 15 grains of alloy.

Second. A five-rupee piece equal to a third of a gold mohur.

Third. A ten-rupee piece equal to two-thirds of a gold mohur.

Fourth. A thirty-rupee piece or double gold mohur; and the three last-mentioned coins shall be of the same standard with the gold mohur, and of proportionate weight.

What impression to bear.

VIII. And be it enacted, that these gold coins shall bear on the obverse the head and name of the *reigning* sovereign of the United Kingdom of Great Britain and Ireland, and on the reverse, the designation of the coin in English and Persian, and the words "East India Company" in English, with such embellishment as shall from time to time be ordered by the

See Act XXXI., 1837.

Governor-General in Council, which shall always be different from that of the silver coinage.

IX. And be it enacted, that no gold coin shall henceforward be a legal tender of payment in any of the territories of the East-India Company.

Gold coin not a legal tender.

See Act XXII., 1844.

X. And be it enacted, that it shall be competent to the Governor-General in Council, in his executive capacity, to direct the coining and issuing of all coins authorized by this Act; to prescribe the devices and inscriptions of the copper coins issued from the mints in the said territories, and to establish, regulate, and abolish mints, any law hitherto in force to the contrary notwithstanding.

Powers of the Governor-General in Council as to coinage and mints.

Copper coinage.

A.D. 1835. ACT XXI.

PASSED *by the Honourable the Governor-General of India in Council, on the 7th December*, 1835.

Extended to the other Presidencies by Act XXII., 1844.

I. BE it enacted, that from the 20th day of December, 1835, the following copper coins only shall be issued from any mint within the Presidency of Bengal:—

1. A pice, weighing . . . . . 100 grains troy.
2. A double pice . . . . . 200 —
3. A pie, or one-twelfth of an anna piece . $33\frac{1}{3}$ —

with such devices as shall be fixed for the same by the Governor-General in Council, according to the provisions of Section X. of Act XVII. of 1835.

Weight of copper coins in Bengal.

II. And be it enacted, that from the said 20th day of December, 1835, the said pice shall be legal tender for $\frac{1}{64}$ of the Company's rupee, and the said double pice for $\frac{1}{32}$ of the Company's rupee, and the said pie for $\frac{1}{192}$ of the Company's rupee.

Value of copper coins in Bengal.

III. Provided always, that after the said 20th day of December, 1835, no copper coin shall in any part of the territories of the East-India Company be legal tender, except for fractions of a rupee.

When copper coins may be legally tendered.

A.D. 1836. ACT VI.

PASSED *by the Right Honourable the Governor-General of India in Council, on the 7th March,* 1836.

Limitation of imprisonment for contempt of court.

IT is hereby enacted, that it shall be lawful for any court, by which any person shall be, or shall have been, committed to custody under the authority of Section XXII., Regulation III., 1802, of the Madras code, to liberate such person when such court shall be of opinion that the confinement has been sufficient for the punishment of his offence, and that no person shall, under the authority of the said section, be kept in custody for a term exceeding two months.

A.D. 1836. ACT IX.

PASSED *by the Right Honourable the Governor-General of India in Council, on the 11th April,* 1836.

Commanding officers may administer oaths as justices of the peace.

IT is hereby enacted, that the commanding officer of any military station occupied by troops in the service of the East-India Company, out of the territories of the said Company, shall be competent to administer within the limits of such military station any oath which a justice of the peace is competent to administer within the said territories, and that such oath shall, in all respects, be of the same effect as if taken within the said territories before a justice of the peace.

A.D. 1836. ACT XI.

PASSED *by the Right Honourable the Governor-General of India in Council, on the 9th May,* 1836.

Cessation of 53 Geo III., cap. 155, cl. 107.

I. IT is hereby enacted, that from the 1st day of June, 1836, the 107th clause of an Act of Parliament passed in the 53rd year of King George III., and intituled, "An Act for continuing in the East-India Company for a further Term the Possession of the British Territories in India, together with certain exclusive Privileges; for establishing further Regulations for the Government of the said Territories, and the better Administration of

Justice within the same, and for regulating the Trade to and from the Places within the Limits of the said Company's Charter," shall cease to have effect within the territories of the East-India Company.

See Act III., 1839

Place of birth or descent not to exempt from jurisdiction of courts

II. And it is hereby enacted, that from the said day, and within the said territories, no person whatever shall, by reason of place of birth, or by reason of descent, be in any civil proceeding whatever excepted from the jurisdiction of any of the courts hereinafter mentioned; that is to say,

[*In Bengal.*]

Madras

The Court of Sudder Adawlut, the *provincial courts*, the courts of the *zillah judges*, of the *assistant* judges, [*of the registers, and*] of the *native judges* in the territories subject to the Presidency of Fort St. George.

[*In Bombay.*]

A.D. 1836. ACT XVI.

PASSED *by the Right Honourable the Governor-General of India in Council, on the* 20*th June*, 1836.

[Vakeels in the Court of the Carnatic Commissioner.]—*The office of Carnatic Commissioner established by Regulation IV.*, 1833, *is extinct.*

A.D. 1836. ACT XXIII.

PASSED *by the Right Honourable the Governor-General of India in Council, on the* 10*th October*, 1836.

[Suspension of the Regulations in Goomsur and Soorada.]—*Repealed by Act XXIV.*, 1839.

A.D. 1836. ACT XXIV.

PASSED *by the Right Honourable the Governor-General of India in Council, on the* 10*th October*, 1836.

See Reg VII and VIII, 1827.

Native judges to be styled principal sudder ameens

I. IT is hereby enacted, that the officers who in the Regulations of the Presidency of Fort St. George are designated as native judges and native criminal judges, shall, from the 1st day of November, 1836, be designated as principal sudder ameens.

II. [*Bombay.*]

Removal of disabilities.

III. And it is hereby enacted, that from the said 1st day of November, 1836, no person whatever shall, by reason of birth, or by reason of descent, be incapable of being a principal sudder ameen, sudder ameen, or monsif, within the territories subject to the Presidencies of Fort St. George and of Bombay.

Amenability of principal sudder ameens, &c. being British-born subjects, or their descendants

IV. And it is hereby enacted, that every British-born subject of the king, or descendant of such British-born subject, who shall be appointed a principal sudder ameen, sudder ameen, or moonsif, in the territories subject to the Presidency of Fort St. George, or of Bombay, shall, in respect of all acts done by him as such principal sudder ameen, sudder ameen, or moonsif, be liable to the same proceedings, as well criminal as civil, and shall be amenable to the jurisdiction of the same tribunals, as if he were not of British birth or descent.

V. [*Bombay.*]

A.D. 1836. ACT XXV.

PASSED *by the Right Honourable the Governor-General of India in Council, on the* 31*st October*, 1836.

Governments of Presidencies to declare warehousing ports.

I. IT is hereby enacted, that it shall be lawful for the Governor, or Governor in Council of any Presidency, to declare any port within the territories of such presidency a warehousing port.

Importers may then warehouse

II. And it is hereby enacted, that it shall be lawful for any person who imports goods into any such warehousing port to lodge such goods in any public warehouse, or in any private warehouse, licensed in the manner hereinafter described.

Making application in Form (A.) annexed.

Goods first to be assessed for customs duty.

Warehouse-keeper to be answerable for weight or gauge of the custom-house, allowing for wastage.

III. And it is hereby enacted, that applications shall be made for the admission of such goods into such warehouses as aforesaid in the Form (A.) attached to this Act, and the said form shall be signed by the importer, owner, or consignee; and no goods shall be lodged in any such warehouse until they shall have been assessed for customs duty, according to the rules in force at the place of importation; and the keeper of every such warehouse shall be answerable for the weight or gauge reported by the custom-house officers who shall have assessed the said goods, deducting the wastage hereinafter allowed.

Misdescription of tale goods or packages, to injury of revenue, punishable by fine of ten times the loss.

IV. And it is hereby enacted, that when goods shall be passed by tale or by package, every omission or misdescription, tending to injure the revenue, shall be an offence punishable with fine, not exceeding ten times the greatest amount of duty which could have been lost to the Government in consequence of such omission or misdescription; and if goods

shall have been overstated in quantity or value, the error may be rectified prior to the lodging of the said goods in such warehouse as aforesaid, but not after the said goods have been so lodged.

Error of over-statement may be rectified before, not after entry into warehouse.

V. And it is hereby enacted, that no packages of goods shall be admitted into any public or licensed warehouse unless numbered and marked, in plain and legible characters, with the initials of the owner, importer, or consignee, and with a description of goods contained therein.

Packages to be marked and numbered before reception into warehouse.

VI. And it is hereby enacted, that upon goods warehoused under the provisions of this Act, when the import duty chargeable shall exceed the sum of 100 rupees, the importer or consignee shall be allowed to execute a bond for the amount of duty chargeable, in the form hereunto annexed, marked (B.); and when such bond shall have been executed, the goods shall be allowed to remain in warehouse for a period not exceeding fifteen months, without being liable to the demand of import-duty thereon. And the bond to be taken under this section shall be for twice the amount of import-duty assessed on the goods, and shall stipulate for interest, to be payable from the date of the demand of any sum due on account of the goods, at such rate, not exceeding six per cent., as shall be fixed by the board or other controlling authority of customs; and the party executing the same shall be bound thereby for the payment of all duties and charges that shall be claimable on account of the goods, and of any penalties that may be incurred for violation of the custom laws in respect to the same.

When the duty exceeds 100 rupees, bond may be executed for it in Form (B.).

And goods may then remain in warehouse for fifteen months without demand of duty.

Bond to be for twice the duty, and to bear interest from the date of demand.

The obligee to be bound for all duties and charges claimable on the goods and for all penalties.

VII. Provided always, that if any owner, importer, or consignee shall omit to pay any duty or penalty that may fall due on account of goods warehoused under this Act, it shall be lawful for the collector of customs, at his option, either to proceed upon the bond, or to cause such portion of the goods warehoused on account of which the duty or penalty may be demanded, as to him may seem fit, to be detained, in satisfaction thereof; and if the demand be not discharged within ten days from the date of such detention (due notice thereof being given to the importer, owner, or consignee), the goods so detained shall be liable to be sold in satisfaction of the demand; and the proceeds of any sale so made of goods detained shall be written off upon the bond in discharge thereof to the amount received, less the charges of the sale; and if there be any surplus obtained from such sale beyond the amount demanded, such surplus shall be paid over to the owner or consignee of the goods; and no transfer or assignment of the goods shall prevent the collector from proceeding against the goods, in the manner above provided, for any demand of customs duties or penalty claimed thereon.

But collector to have power to proceed against the goods or under the bond, at his option.

And to detain goods and sell after ten days, if the demand be not paid.

Proceeds of sale to be written off on the bond, and surplus paid over to the owner of the goods.

No transfer to bar this process.

VIII. And it is hereby provided, that if at the end of fifteen months the owner or consignee of goods shall desire to keep them in warehouse for a further period, the Board or other controlling authority of customs shall be competent to permit him so to keep them for a like further period, not exceeding fifteen months, on the bonds being renewed, by the parties applying for the same.

After fifteen months, the Board may renew the bond for other fifteen months.

Goods re-landed from a vessel put back may be warehoused without bond and re-shipped under the previous settlement of duties.

Exception.

IX. And it is hereby enacted, that when a vessel, after having cleared from the port, shall return, and the owners, agents, or shippers of the cargo of such vessel, or any part thereof, shall desire to land the same for re-export, such goods shall be admitted to warehouse, and being so declared and registered, re-export may be made thereof under the previous settlement for duty, unless the bottom in which the re-export is made be one on account of which the goods are chargeable with increased duty, in which case the goods shall be chargeable only with the difference; and no bond shall be taken on account of duties for such relanded goods, unless the goods should be liable to duty on being passed through the custom-house for importation.

Reserved duty on re-export to be chargeable on removal of goods for shipment, and bonds to be cancelled on payment thereof.

X. And it is hereby enacted, that upon the re-exportation by sea of goods imported and warehoused under bond for the duty, as provided in this Act, within the period during which such goods are by this Act permitted to continue in warehouse, and upon payment of all reserved duty which may be due on account of such goods, and of any charges or penalties that may have been incurred on account of the goods, the bond executed at the time of lodging the goods in warehouse shall be deemed to have been discharged, and be cancelled accordingly.

On removal otherwise than for re-export, or if not cleared in time, full import-duty to be levied, with interest charges.

And collector may cause goods to be sold in satisfaction, if not paid in ten days.

XI. And it is hereby enacted, that if any goods lodged in warehouse, in the manner aforesaid, shall be removed or taken from the warehouse otherwise than for exportation by sea, or if the goods be not cleared from the warehouse and exported at the expiration of the time during which such goods are permitted by this Act to remain in warehouse, the collector of customs shall demand the full amount of import-duty chargeable thereon, and any charges or penalties that may have been incurred. And if the amount so claimed be not paid within ten days from the date of the demand, the collector of customs shall be entitled to realize the same either by putting the bond in suit, or, at his option, by causing the goods, or any sufficient portion thereof, to be sold in satisfaction of the demand.

Removal of goods to be noted in the bond, with particulars.

XII. And it is hereby enacted, that whenever any goods warehoused and bonded as aforesaid shall be removed from any public or licensed warehouse, the collector of customs shall cause such removal to be noted on the back of the bond; and every note so made shall specify the quantity and description of goods removed, the purposes for which they have been removed, the date of removal, and name of the person removing them, and the number and date of the export-pass under which they have been taken away, if removed for exportation by sea; and of the import-pass or order, if removed for importation, and the amount of duty paid.

And the same particulars to be registered in the register of bonds.

When registry shows all the bonded goods to have been cleared out, bond to be cancelled and returned to the obligee.

XIII. And it is hereby enacted, that a register shall be kept of all bonds entered into for customs duties on goods warehoused as aforesaid, and entry shall be made in the said register of all particulars prescribed in the preceding section of this Act, as to be noted on the bond; and when the register shall show that the entire quantity of the goods covered by any bond has been withdrawn from warehouse either through importation and the payment of duties, or through re-exportation by sea and payment of the reserved duties upon such re-export, it shall then be competent to,

and be the duty of, the collector of customs to cancel the bond as discharged in full, and to deliver it so cancelled to the parties who shall have executed, or who shall be authorized to receive the same.

The custom-house godowns and other Government godowns to be public warehouses.

XIV. And it is hereby enacted, that the warehouses of the custom-house, together with such other buildings as shall be directed by the Governor in Council, or Governor of the presidency or settlement, shall be public warehouses for the reception of the goods under the provisions of this Act. And every public warehouse shall be under the lock and key of the person whom the Governor, or Governor in Council of the presidency, shall appoint to be keeper of such warehouse; and such keeper shall be responsible for all duties connected with the charge of goods, their reception into, and delivery from, the warehouses.

These to be under the collector's or warehouse-keeper's key.

Board to determine what goods are to be receivable into public warehouse, and the terms and rates of warehouse-rent or hire. Table of rates to be exposed conspicuously.

XV. And it is hereby enacted, that the Board or other controlling authority of customs shall determine what goods shall be admitted into every public warehouse, in what manner, and on what terms; and shall from time to time fix rates of hire for every public warehouse, or for the custody of goods therein, and a table of the rates so fixed shall be placed in a conspicuous part of every such warehouse.

Owners to have access to their warehoused goods, attended by a custom-house officer, during business hours.

XVI. And it is hereby enacted, that the owners or consignees of goods lodged in a public or licensed warehouse under this Act, or their agents, shall have access to their goods at any time, within the hours of business, in the presence of a custom-house officer, who shall be deputed to accompany them, upon their making application in writing to the collector of customs, or to the warehouse-keeper for the purpose.

Expenses of carriage, packing, &c., are to be borne by the owners.

And to be realized as customs' duties.

Bill for rent to be sent in monthly.

And if not paid in ten days, goods may be sold in satisfaction.

Collector not answerable for loss by fire or other accident, nor for damage.

XVII. And it is hereby enacted, that the expenses of carriage, packing, and stowage of goods, on their reception into or removal from a warehouse, shall, if paid by the collector or warehouse-keeper, be chargeable on the goods, and be defrayed by the owners or consignees, in like manner as the customs duties before the goods are removed. And if the goods be lodged in a public warehouse, the owners or consignees shall further pay monthly the rent and warehouse dues on receiving a bill or written demand from the collector or warehouse-keeper for the same; and if the bill for rent or warehouse dues be not discharged within ten days from the date of presentation, the collector of customs shall have power (any private transfer or assignment of the goods notwithstanding) to cause to be sold by public auction such sufficient portion of the goods as he may select in liquidation of his demand. And the owners and consignees of goods shall not be entitled to claim from the collector of customs, or warehouse-keeper, any compensation for any loss that may occur while the goods are passed into or out of the warehouse, or while they remain therein, unless such loss or injury shall be proved to have been occasioned by the wilful act or neglect of the warehouse-keeper or his officers, or of the officers of customs.

Wastage to be allowed as per table.

XVIII. And it is hereby enacted, that allowance shall be made for the wastage of goods deposited in warehouses according to the following table, as the rate of wastage for one year, and the import-duty shall be

settled on the quantities registered at the time of importation, wastage at these rates notwithstanding:

TABLE of WASTAGE to be allowed upon Goods when applied to be removed, either from Public or Private Licensed Warehouses.

Description of Goods.	Rate of Wastage.	Description of Goods.	Rate of Wastage.
	Per Cent		Per Cent.
Alkali	5	Oils, essential and fragrant	8
Alums	3	Resin, or Dammer	7½
Aromatic Seeds: Anise	3	Sago	4
Aromatic Seeds: Coriander	3	Sugar	4
Aromatic Seeds: Cummin	3	Saltpetre	4
Aromatic Seeds: Calizerah	3	Soap	3
Aromatic Seeds: Cardamums	3	Silk	5
Aromatic Seeds: Jowain	3	Spices: Cloves	8
Betelnut	7½	Spices: Cinnamon	2
Brimstone	3	Spices: Cassia	2
Camphor	2	Spices: Mace	3
Coffee	5	Spices: Pepper	6
Copperas, or Green Vitriol	5	Spices: Pimento, or Allspice	2
Cotton Wool	2	Tobacco, unprepared	5
Dry Ginger	10	Turpentine	8
Gums and Drugs not otherwise specified	3	Tutenague	2
Iron wrought Bars	3	Wines and spirits in casks; a deduction for ullage of ten per. cent shall be allowed at the time of being received into warehouses.	
Indigo	5		
Kutch, or Terra japonica	3		
Lac, lake stick and seed	3		
Long Pepper and Long Pepper Root	3		

See Act XIII 1841.

Board may license any private warehouses.

License to be revocable at pleasure, unless otherwise stipulated.

XIX. And it is hereby enacted, that the Board or other controlling authority of customs shall have power to license warehouses belonging to private persons for the reception of goods with duty bonded under the rules of this Act, in like manner as prescribed for public warehouses; and every license so granted to a private warehouse shall be liable to be revoked at pleasure by the Board or other controlling authority of customs, unless otherwise specifically stipulated in the license.

Applications for license for private warehouse to be in form (C), with particulars filled up

XX. And it is hereby enacted, that applications for licenses for private warehouses shall be drawn up in the form marked (C.) annexed to this Act, and shall specify the particulars therein stated, and the situation of the warehouses, and their distances respectively from the custom-house in English yards.

Collector or warehouse-keeper to have access to all licensed warehouses for himself and his officers.

Proprietors refusing admittance subject to penalty of 1,000 rupees and withdrawal of license

XXI. And it is hereby enacted, that the collector of customs, or other warehouse-keeper, shall have access for himself, or for any officer he may depute for the purpose, to any private warehouse licensed as above. And if the proprietor thereof shall not open the same when required, or shall refuse to admit the collector or warehouse-keeper, or the officer of either, upon demand made at any time within the hours of business at the port, the proprietor of the warehouse shall be liable to a fine not exceeding 1,000 rupees, and further, to have the license for the warehouse cancelled

and withdrawn, and all bonds executed for duty chargeable upon goods therein deposited shall become due and be put in suit for the levy of the duty and other demands of customs, after seven days shall have passed from the date when the collector of customs or warehouse-keeper shall give notice of any license being withdrawn.

Bonds for duty to be put in suit seven days after notice of such penalty or of withdrawal of license.

XXII. And it is hereby enacted, that if goods lodged in a private warehouse shall be found to be deficient at the time of delivery therefrom beyond the allowance for wastage prescribed in the table annexed to Section XVIII. of this Act, the owner or consignee, or other party who may have lodged the goods in the warehouse, shall, unless the deficiency be accounted for to the satisfaction of the collector of customs, forfeit to Government a sum equal to ten times the duty chargeable on the quantity of goods deficient; and if goods be found to exceed the registered quantity, such excess, unless similarly accounted for, shall be charged with ten times the ordinary duty thereon; and when any penalty shall be incurred under this section, the goods shall not be removed until the same is paid.

If goods be found deficient beyond the wastage allowance at time of delivery from warehouse, owner to forfeit ten times the duty on the deficiency.

If found excessive, ten times the duty to be paid on the excess; and goods to be detained till paid.

XXIII. And it is hereby enacted, that the collector of customs shall have authority at any time to issue his warrant or written order, and to cause any goods or packages lodged in a public or private warehouse to be opened and weighed, or otherwise examined, as he may direct. And after goods shall have been so opened or examined, he shall cause the same to be sealed or marked in such manner as to him may seem fit; and when goods shall have been so sealed or marked (after examination), they shall not be again opened without permission from the Board, or other controlling authority of customs, except when the proprietor or consignee shall apply to have them opened; and in every such case the packages shall be again sealed or marked as before.

Collector of customs may issue warrant for breaking packages to search and examine goods. When repacked, to be sealed; and seal not to be re-broken without sanction of Board;

except under application from proprietor, then to be re-sealed.

XXIV. And it is hereby enacted, that when goods shall be received into warehouse, or shall be removed therefrom, the packages shall be stamped with a conspicuous seal or stamp, containing the words—

"Warehoused and Duty Bonded," or "Delivered for Exportation," or "Removed for Importation," accordingly as the goods may be received or removed for one or other purpose; and any person who shall remove or efface a stamp or seal affixed by an officer of customs, or who shall change the outer cover of any package so marked, or change the contents thereof while goods are in warehouse, without giving notice and obtaining permission of the collector of customs, shall for every such offence forfeit the sum of 500 rupees upon conviction before a magistrate or justice of the peace of the place. Provided, however, that the owners and consignees of goods shall be at liberty to take out samples of their goods of such limited quantity as shall be deemed by the collector of customs reasonable and proper.

Goods to be stamped on reception into or delivery from warehouse.

The stamp not to be removed or effaced without sanction of collector,

under penalty of 500 rupees on conviction before a magistrate.

But owners may be allowed by the collector to take samples.

XXV. And it is hereby enacted, that no goods shall be removed from any warehouse except under application to the collector of customs for the goods to be passed for export or for importation, in like manner as for other goods passed through the custom-house, or for removal to another warehouse, as prescribed in Section XXVIII. of this Act.

Goods not to be removed from warehouse without being passed through the custom-house.

If a package be broken, duty to be levied on all the goods contained therein.

XXVI. And it is hereby enacted, that if any owner or consignee of goods shall in any way break a package for removal of any part of the goods, the entire duty shall be levied for all the goods contained therein.

Applications to remove goods to be made in Form (D.), and twenty-four hours' notice to be given of removal.

XXVII. And it is hereby enacted, that applications to remove goods from warehouse shall be made in the form marked (D.) hereunto annexed, and twenty-four hours' notice shall ordinarily be given to the collector of customs or warehouse-keeper of the intention to remove goods.

Goods may be removed from one warehouse to another, application being made in Form (E.).

XXVIII. And it is hereby enacted, that owners or consignees of goods warehoused and bonded for duty under this Act, may remove the same from one public or licensed warehouse to any other; and when they shall desire so to remove goods, they shall make application in the form marked (E.) hereunto annexed, furnishing the information specified, and filling up the columns left blank in the said form, with all the particulars therein contained.

No duty to be levied on goods destroyed by fire or other accident; and if damaged, duty to be levied on the damaged value.

XXIX. And it is hereby enacted, that if goods warehoused and bonded for duty shall be destroyed by fire or other accident, no duty shall be chargeable thereon, provided that if they be destroyed in a private warehouse, notice thereof be given to the collector of customs or warehouse-keeper within forty-eight hours of the discovery of the accident; and if goods, when lodged in warehouse, shall receive damage, they shall be assessed for duty according to their actual value, and bond for the same executed for the unexpired term of warehousing.

Penalties under this Act to be adjudged by the collector of customs.

Subject to confirmation by the Board or other superior authority of customs.

XXX. And it is hereby enacted, that whenever any person shall be charged with having committed any act or neglect for which he is liable to penalty under this Act, the collector of customs at the port shall be competent to investigate the case, and to adjudge the penalty or to dismiss the complaint, as to him may seem fit. Provided, however, that if the collector shall adjudge any penalty to be incurred, such judgment shall not be conclusive until the case shall have been reported to the Board or other superior authority of customs, and the award shall have been confirmed by that authority. And it is further enacted, that the Board or other controlling authority of customs shall have the power of mitigating any penalty that may be incurred on account of warehoused goods, to the extent of reducing the same to a levy of double duty.

(A.)

FORM of Application for the Reception of Goods imported by Sea in Warehouses.

To the Collector of Sea Customs at Calcutta.

Sir,

Please to order the reception into the government (or private warehouse of Mr. *A. B.* situate at , and licensed by No. , dated), of the undermentioned goods, being of the

growth or manufacture of (place to be stated), and arrived from (port or place to be mentioned), on the (British or other) ship whereof is commander, the duty upon which goods has been adjusted in the manner hereafter specified.

Marks and Number of Packages.	Description of Packages and Goods.	Contents of Goods.	Rate of Value of the Goods.	Amount Value of the Goods as ascertained and entered on the landing of the same.	Rate of Duty, both of Customs and Town Duty.	Date and Number of Importation.	Specification of the Particulars of Bonds, if the Duty upon the Goods has been bonded.
Total ...							

(Date.) (Signed) (By the owner, agent, or consignee of the goods.)

(B.)

FORM of Bond for Import Duty.

Know all men by these presents, that we , now of Calcutta, at Fort William, in the province of Bengal in the East Indies, and , of the same place, are jointly and severally held and firmly bound unto the East-India Company in the sum of Rs. , to be paid to the said East-India Company, or their certain attorney, agent, successors, or assigns, for which payment, well and truly to be made, we jointly and severally bind ourselves and each of us, and our respective heirs, executors, administrators, and representatives, by these presents, sealed with our respective seals, dated the day of in the year of Christ ; and the said for themselves and each of them, and their respective heirs and representatives, covenant and agree that, in case of dispute touching the matter of this obligation, or the condition thereof, the same may be heard and determined in the Supreme Court of Judicature at .

Whereas the above bounden hath (or have) applied to the collector of sea customs of the said East-India Company at for, and have obtained permission to lodge in a certain public (or licensed) godown for a period of fifteen months, subject to the Rules or Regulations of Government, the following goods; that is to say, (here a large blank should be left for describing the goods) being of the growth or manufacture of , and imported by sea from on board

the ship , and entered in the custom-house books as No. of the register of goods imported by sea.

Now the condition of this obligation is such, that, if the above bounden (the principal) his or their heirs, executors, administrators, representatives, or assigns, shall in all things well and truly observe and keep all and singular the rules prescribed in Act No. XXV. of 1836 to be observed and kept by the owners, importers, or consignees of goods bonded and warehoused, and by the persons obtaining permission to bond and warehouse goods under the provisions thereof; and if the said (the principal) his (or their, if more than one) heirs, executors, administrators, representatives, or assigns, do and shall well and truly pay or cause to be paid to the collector of customs for the time being for the port, all such dues, whether of customs or of lawful charges, as shall be due or demandable upon the said goods, or on account of penalties incurred in respect to them, at or before the expiration of fifteen months from the date of these presents, or before, or at the expiration of such further time as the Board of Customs shall allow in that behalf, together with the interest thereon, at the rate of per cent. per annum from the date of demand thereof being made by the said collector of customs in writing; and further, if the said goods, after being so warehoused, or any part thereof, shall not, within the term so fixed or to be enlarged, be removed from the said public (or licensed) godowns, or in case the said goods, or any part thereof, shall be removed from the said public (or licensed) warehouse at any time within the said term, either for importation or for exportation by sea; then and in such case, if the full amount of all such duties, charges, and penalties as may be payable or demandable as aforesaid shall have been first paid and satisfied on the whole quantity of the said goods, then this obligation to be void and of no effect; otherwise, and on breach or failure in the performance of the said several conditions, or any of them, the same to be in full force and virtue.

Sealed and delivered, &c.

(C.)

FORM of Application to obtain License for Private Warehouses.

To the Collector of Customs at Calcutta.

Sir,

Please to submit to the Board of Customs (or other controlling authority of customs) my request to be furnished with a license, under Act No. XXV. of 1836, for a warehouse, situate at , and about the distance of yards from the Custom-house. The dimensions and other particulars of the godown are stated below, and the same is intended for the reception of all goods as a general storehouse (or as the case may be), the period of license not to exceed (mention the time for which period).

Particulars of Godown.

Length, feet, inches Breadth, ditto, ditto Height, ditto, ditto	Dry, airy, well-flued, and puckah built, can contain with perfect safety and convenience about tons of goods.

The same being my own property (or the property of from whom I have engaged the same on a lease of).

(Signed) (By the applicant.)

(D.)

FORM of Application for Removal of Goods from Warehouses.

To the Collector of Government Customs.

Sir,

Please to order to be passed from the government (or private) warehouse (of Messrs. *A. & Co.* situate at , and licensed under Act No. XXV. of 1836, by No. , dated) the undermentioned goods intended for exportation by sea, on the British ship , Captain , bound to , (or for internal consumption; or to be consigned to any station in the interior, as the case may be), the same having been entered in the books of your office for the said warehouse, under No. , dated , by me (or by Messrs. *B. & Co.* whose certificate of the transfer of the goods is herewith annexed).

Marks and Number of Cases. B. & Co. (Name of the Goods.) No. 1 to 4. □ × √ Sealed. " Warehoused for Exportation."	4 Cases of (name of Goods). 1 Case (Box, Bale, or Parcel), containing (here insert the quantity in each case). 1 Ditto. 1 Ditto. 1 Ditto. 4 Cases (Boxes, Bales, or Parcels), containing (total contents to be here stated).

Custom-house value of the above, rupees , and please to receive the amount of duty bonded for the said goods, by bond No. , dated , allowing drawback for exportation on British bottom (or as the case may be).

(Signed) (Either by the owner, agent, or consignee of the goods.)

(E.)

FORM of Application for the Removal of Goods from one Warehouse to another, during the period for which the indulgence of Warehousing may have been obtained.

To the Collector of Government Customs at Calcutta.

Sir,

Please to permit the removal of the undermentioned goods from the government (or other licensed) warehouse to (the warehouse into which the removal is intended to be made must here be distinctly described), for the unexpired period of warehousing due on the goods, the same having been originally entered by virtue of Act No. XXV. of 1836, in the books of the warehouse department, under No. , dated for fifteen months (or such other period as may have been allowed, to be

here stated), under all the obligations and conditions at present attached to the goods.

Marks and Numbers of Packages.	Description of Packages and of Goods	Contents of Packages.	Rate of Value of Goods.	Amount of Value of Goods as entered in Custom-House Books.	Rate of Duty chargeable or paid upon the Goods.	Name of the Persons by whom Goods first passed into Warehouses.

Note.—If the goods to be removed shall have been sold or transferred by the original proprietor or agent, a certificate of such sale or transfer shall accompany the application.

(Signed) (By the owner, agent, or consignee of the goods.)

A.D. 1836. ACT XXVII.

PASSED *by the Right Honourable the Governor-General of India in Council, on the 7th November*, 1836.

Rescission of Regulation V., 1817

I. It is hereby enacted, that Regulation V. of 1817, of the Madras code, entitled "A Regulation for providing a succession of Hindoos and Mahommedans duly qualified, to be employed as Law Officers and as Vakeels in the Courts of Adawlut, under the Presidency of Fort St. George," be repealed.

Selection and appointment of Vakeels

II. And it is hereby enacted, that candidates for the situation of vakeel in the Courts of Adawlut under the Presidency of Fort St. George shall in future be appointed under the provisions of Section III., Regulation XIV. of 1816, and that the qualifications of candidates for the situation of law officers be ascertained, by examination before the law officers of the Court of Sudder and Foujdarry Adawlut, with reference to the provisions of Section III., Regulation XI. of 1802, and Clause 2, Section III., Regulation VII. of 1822.

Qualifications of law officers

A.D. 1836. ACT XXVIII.

PASSED *by the Right Honourable the Governor-General of India in Council, on the 7th November*, 1836.

I. IT is hereby enacted, that from the 1st day of December, 1836, no assessment made by the justices of the peace for the Presidency of Fort St. George, under the authority of the Act of Parliament of the 33 Geo. III., c. 52, shall be levied, until the same shall have been approved by the Governor in Council of Fort St. George.

Town assessment must be approved by Governor in Council.

II. And it is hereby enacted, that it shall be lawful for the said Governor in Council of Fort St. George, by an order in council, to exempt any district, or portion of a district, from payment of any such assessment.

Power of Governor in Council to exempt from assessment.

A.D. 1836. ACT XXIX.

PASSED *by the Right Honourable the Governor-General of India in Council, on the 14th November*, 1836.

I. IT is hereby enacted, that from the 1st day of December, 1836, it shall be competent to the Court of Sudder Adawlut of Fort St. George, with the sanction of the Governor in Council, to augment or diminish at discretion the number of sudder ameens within that presidency.

Sudder Court may regulate the number of sudder ameens.

II. And it is hereby enacted, that such parts of any of the regulations in force as authorize the [*registers of the zillah courts and*] sudder ameens within the Presidency of Fort St. George, to receive any fee or commission for judicial duties performed by them, be repealed. Provided always, that this rule shall not be construed to prohibit the receipt of fees for the registry of deeds.

Sudder ameens not to receive fees.

A.D. 1836. ACT XXX.

PASSED *by the Rihgt Honourable the Governor-General of India in Council, on the 14th November*, 1836.

I. IT is hereby enacted, that whoever shall be proved to have belonged, either before or after the passing of this Act, to any gang of Thugs, either

Punishment of Thuggee.

within or without the territories of the East-India Company, shall be punished with imprisonment for life, with hard labour.

What courts may try.

II. And it is hereby enacted, that every person accused of the offence made punishable by this Act, may be tried by any court which would have been competent to try him, if his offence had been committed within the zillah where that court sits, any thing to the contrary in any regulation contained notwithstanding.

Futwa dispensed with.

III. And it is hereby enacted, that no court shall, on a trial of any person accused of the offence made punishable by this Act, require any futwa from any law officer.

See Acts XVIII., 1837; XVIII., 1839; XXIV., 1843; and X., 1847.

A.D. 1836. ACT XXXI.

PASSED *by the Right Honourable the Governor-General of India in Council, on the 28th November*, 1836.

Extension of Regulation IV., 1831.

IT is hereby enacted, that the provisions of Regulation IV. of 1831, of the Madras code, relating to grants of money or land revenue made by the British Government, shall be extended to all similar grants within the territories subject to the Presidency of Fort St. George, which, having been made by any native government, have been confirmed or continued by the British Government.

A.D. 1837. ACT IV.

PASSED *by the Right Honourable the Governor-General of India in Council, on the 17th April*, 1837.

Property in land may be held by any subject of H. Majesty,

I. IT is hereby enacted, that after the 1st day of May next it shall be lawful for any subject of His Majesty to acquire and hold in perpetuity, or for any term of years, property in land, or in any emoluments issuing out of land, in any part of the territories of the East-India Company.

in like manner as by natives.

II. And it is hereby enacted, that all rules which prescribe the manner in which such property as is aforesaid may now be acquired and held by natives of the said territories, shall extend to all persons who shall, under the authority of this Act, acquire or hold such property.

A.D. 1837. ACT VIII.

PASSED *by the Right Honourable the Governor-General of India in Council, on the 8th May,* 1837.

[Anjengo and Changancherry constituted a separate jurisdiction, under the resident in Travancore.]—*Repealed by Section I., Act III.,* 1838.—*See also Section I., Act VII.,* 1843, *and Order in Council, page* vi. *of the Appendix to the Prefatory Note.*

A.D. 1837. ACT XIV.

PASSED *by the Right Honourable the Governor-General of India in Council, on the 12th June,* 1837.

Reciprocation of duties between foreign states in Asia or Africa and the East-India Company's territories.

IT is hereby enacted, that whenever any foreign state in Asia or Africa shall permit, within the dominions of such state, the importation or exportation of goods in British vessels on the same terms on which it permits the importation or exportation of goods in vessels belonging to the subjects of such foreign state, it shall be lawful for the Governor-General of India in Council, by an order in council, to direct that goods may be imported into the territories of the East-India Company, or exported thence in vessels belonging to the subjects of such foreign state, on the same terms on which such goods are imported into the said territories, or exported thence in British vessels.

A.D. 1837. ACT XVII.

PASSED *by the Right Honourable the Governor-General of India in Council, on the 24th July*, 1837.

Rescission

I. IT is hereby enacted, that Regulation XI. of 1830, of the Bombay code, shall be repealed.

See Act XX., 1838, and Act XVII., 1839.

Right to convey letters to be in Governor-General in Council,

II. And it is hereby enacted, that the exclusive right of conveying letters by post for hire from place to place within the territories of the East-India Company, shall be in the Governor-General of India in Council.

who may license persons to convey letters,

III. Provided always, that it shall be competent to the said Governor-General of India in Council, and to any authority thereunto empowered by the said Governor-General in Council, to grant to any person or persons a license, permitting such person or persons to convey letters by post for hire from place to place within the said territories, and that it shall be lawful for any person or persons having such a license to convey letters in conformity with the terms of such license.

and revoke such licenses.

IV. And it is hereby enacted, that it shall be lawful for the said Governor-General in Council, and for any authority which may have granted any such license as is described in the preceding section, to revoke such license at pleasure.

No person to convey letters for hire except under such license.

V. And it is hereby enacted, that whoever otherwise than under the authority of the said Governor-General in Council, or in conformity with the terms of such a license as is aforesaid, knowingly conveys any letters by post for hire from place to place within the said territories, or receives any letter or packet of letters, in order to such conveyance, or delivers any letter according to its direction, knowing the same to have been so conveyed, or is accessory to such conveyance, receipt, or delivery, shall be punished with fine not exceeding fifty rupees for every letter so conveyed, received, or delivered.

Penalty.

Rates of postage.

VI. And it is hereby enacted, that inland postage duties shall be levied on the conveyance of letters and packets by the government post, at the rates set forth in the schedule marked (A.), which is annexed to this Act, and that the full postage shall be paid either on receipt, or on delivery, at the option of the sender, and that if the thing conveyed be transferred from a post-office in one presidency to a post-office in another presidency, no additional charge shall be made on account of such transfer.

Modified by Act XVII., 1839.

Where there is a banghy, letters above twelve tolas need not be sent by post.

VII. And it is hereby enacted, that when there is a banghy established on a line of road, no person shall be entitled to demand that any letter or packet exceeding twelve tolas in weight shall be conveyed by the letter post on that line of road.

VIII. [What may be sent by post where there is no banghy.]—*Repealed by Section I., Act XX.*, 1838.

IX. And it is hereby enacted, that no packet of the description mentioned in Table 2 of Schedule (A.) shall contain any writing whatever other than writing which is necessarily part of the document which such packet is stated to contain, by attestation on the cover of such packet, and that whoever shall send any such packet by the government post, knowing that it contains any writing not necessarily part of the documents which such packet is stated to contain, by attestation on the cover, shall be punished with a fine of fifty rupees.

Restriction in respect of Table 2, Schedule A.

X. And it is hereby enacted, that no packet of the description mentioned in Table 3 of Schedule (A.) shall contain any writing whatever, except the direction on the cover, and that whoever shall send any such packet by the government post, knowing that it contains any writing other than the direction on the cover, shall be punished with a fine of fifty rupees.

Restriction in respect of Table 3, Schedule A.

XI. And it is hereby enacted, that proof sheets marked as such may be sent by letter post at the rates set forth in Table 3 of Schedule (A.), provided they be brought to the despatching-office open, and be sealed in presence of the person in charge of such office.

Rates for proof sheets

XII. And it is hereby enacted, that the said Governor-General in Council shall frame a scale of distances as nearly as practicable, according to the distance by the nearest road between post-office stations, and that the rates of inland postage shall be calculated according to this scale.

Rates to be fixed according to distance.

XIII. And it is hereby enacted, that steam-postage, according to such rates as may from time to time be fixed by the Governor-General in Council, shall be levied on all letters and packets sent or received by any government steamer, and that such steam postage shall be in excess of any inland postage to which such letters or packets may be liable.

Rates by Government steamers.

Modified by Act XVII., 1839.

XIV. And it is hereby enacted, that ship postage, according to the rates fixed in Schedule (B.) annexed to this Act, shall be levied on all letters or packets sent or received by sea through any government post-office, and not liable to steam postage.

Rates of ship postage.

XV. And it is hereby enacted, that when any vessel arrives by sea at any place within the said territories, at which there is a government post-office, the commander of such vessel shall, as speedily as possible, cause every letter and packet on board of such vessel which is directed to that place, and which was not specially entrusted for separate delivery, to be delivered either at the post-office, or to some officer of the post-office authorized to receive the same; and that if there be on board any letter or packet directed to any other place, and not specially entrusted for separate delivery, the said commander shall, as speedily as possible, report the same to the postmaster-general, or postmaster of the place at which he has arrived, and shall act according to such directions as he may receive

Commanders of ships to cause all letters not entrusted for separate delivery to be forwarded to the post-office.

from such postmaster-general, or postmaster; and that the receipt of such postmaster-general, or postmaster, shall discharge such commander of all responsibility in respect of such letter or packet.

Penalty for disobedience.

XVI. And it is hereby enacted, that every commander of a vessel who shall wilfully disobey any of the directions contained in the preceding section shall be punished with fine, not exceeding 1,000 rupees.

Payment to commanders of ships by post-office.

XVII. And it is hereby enacted, that for every letter or packet delivered by a commander of a ship, in conformity with the directions of Section XV. of this Act, the officer in charge of the post-office shall pay to the said commander the sum of one anna.

Payment for letters transhipped.

XVIII. And it is hereby enacted, that whenever any letter or packet is transhipped for transmission to any other place within the said territories, the commander of the vessel which originally brought such letter or packet shall be entitled to receive one anna for every such letter or packet, and that the commander of the vessel into which the letter or packet is transhipped, shall be entitled to receive half an anna from the person in charge of the post-office at the place of delivery, provided that the said last-mentioned commander delivers the same in conformity with the directions contained in Section XV. of this Act.

Proviso.

XIX. Provided always, that no payment shall be made to the commander of any vessel on account of the delivery of any letter or packet, unless the claim of such commander shall be preferred before the vessel leaves the place at which the letter or packet was delivered, or before the expiration of three months from the date of the arrival of the packet at the place of ultimate delivery.

Commanders of ships to carry all letters sent to them by post-office.

XX. And it is hereby enacted, that the commander of every vessel leaving any place in the said territories by sea, shall receive on board of such his vessel, every letter and packet which he shall be required to receive by any officer of the post-office, and shall sign a receipt for such letters and packets; and that every commander of a vessel who shall wilfully disobey any direction of this clause, shall be punished with a fine not exceeding 1,000 rupees.

Penalty for refusal.

Postage need not be paid for letters returned unopened.

XXI. And it is hereby enacted, that whenever any letter or packet, the postage of which has not been paid, shall be delivered by any person employed by the post-office, the person to whom it is delivered shall not be bound to pay the postage if he returns the letter or packet unopened; but if he opens the same, he shall be bound to pay the postage due thereon; provided always, that if the letter or packet shall appear to have been maliciously sent for the purpose of annoying the person to whom it is directed, the postmaster-general, or postmaster of the office, from which the delivery took place, shall remit the said postage.

Proviso.

Returned letters to be paid for by the sender.

XXII. And it is hereby enacted, that every letter or packet which is rejected unopened by the person to whom it is directed, shall be returned by post to the sender, and that the said sender shall be bound to pay

the return postage thereon, unless direct postage has already been paid thereon.

XXIII. And it is hereby enacted, that whenever any letter or packet, the sender of which is unknown, shall be rejected unopened by the person to whom it is directed, such letter or packet shall be opened by the officer in charge of the post-office from which such letter or packet was delivered to that person.

Returned letters may be opened by officer of post-office.

XXIV. And it is hereby enacted, that if any person shall refuse to pay any postage which he is legally bound to pay for any letter or packet, it shall be lawful for the officer in charge of the post-office from which such letter or packet was delivered, to withhold from the person so refusing, till such postage be paid, any letter directed to that person upon which postage has not been paid by the sender.

Post-office may withhold unpaid letters from persons.

XXV. And it is hereby enacted, that all letters and packets which have remained three months unclaimed at any post-office, shall be transmitted to the General Post-office of the presidency.

Letters unclaimed for three months to be returned to General Post-office.

XXVI. And it is hereby enacted, that at intervals not exceeding three months, lists of all unclaimed letters and packets which are in the General Post-office of any presidency, shall be published in the Official Gazette of that presidency.

List of unclaimed letters to be published in Gazette.

XXVII. And it is hereby enacted, that every letter and packet which may have remained eighteen months unclaimed in the General Post-office of any presidency, shall be opened by the postmaster-general of that presidency, and that all valuable property which such letter or packet may contain, shall be paid into the government treasury for the benefit of any party who may have a right thereto, and that when twelve months shall have elapsed after the opening of such unclaimed letter or packet, it shall be lawful for the said postmaster-general, if such letter or packet still continues to be unclaimed, to destroy the same.

Disposal of unclaimed letters and the contents.

XXVIII. And it is hereby enacted, that the privilege of sending and receiving all letters and packets by letter post free of postage, and of sending and receiving letters and packets by banghy on the public service free of postage, shall be allowed to the persons hereinafter mentioned, viz.

Persons privileged to frank.

His Majesty's Principal Secretaries of State.

President and Secretaries of the Board of Control.

The Chairman, Deputy-Chairman, and Directors of the East-India Company.

Secretary, Deputy-Secretary, and Assistant-Secretary at the India House.

The Governor-General.

The Governors of Bengal, Madras, and Bombay.

The Governor of Ceylon.

The Lieutenant-Governor of the North-Western Provinces.

The Chief Justices of Bengal, Madras, and Bombay.

The Bishops of Calcutta, Madras, and Bombay.

The Members of the Supreme Council.

The Members of Council of Madras and Bombay.

The Puisne Judges of the Supreme Courts of Bengal, Madras, and Bombay.

The Recorder of Prince of Wales' Island, Singapore, and Malacca.

The Commander-in-Chief of His Majesty's Naval Forces.

The Commander-in-Chief of the Army in India.

The Commanders-in-Chief of the Army at Madras and Bombay.

And that the letters and packets sent by any of the persons aforesaid, shall be franked in such manner as may be directed by the Governor-General of India in Council.

Governor-General in Council may grant privilege to frank.

XXIX. And it is hereby enacted, that it shall be competent to the said Governor-General of India in Council, by an Order in Council, to grant to any person, or body of persons, the privilege of sending or receiving letters or packets either by letter post or banghy, free of postage on such conditions and under such rules as the said Governor-General in Council may direct.

Cases in which postmaster may open suspected letters.

XXX. And it is hereby enacted, that if any postmaster-general, or postmaster, shall suspect that any letter or packet lying for delivery at his post-office contains any contraband article, or any article on which duty is owing to Government, or that any letter or packet lying for delivery at that post-office contains any writing in contravention of the provisions of Sections IX. and X. of this Act, it shall be lawful for such officer to summon the person to whom the letter or packet is directed, to attend at the post-office, by himself or agent, within forty-eight hours after the arrival of the letter or packet at that post-office, and to open the letter or packet in the presence of the person to whom the letter or packet is directed, or of that person's agent: and if that person shall not so attend, by himself or agent, then to open the letter or packet in the absence of that person.

Government and its officers not responsible for loss, unless fraudulently or maliciously caused.

XXXI. And it is hereby enacted, that the Government shall not be responsible for any loss or damage which may occur in respect of anything entrusted to the post-office for conveyance, and that no person employed by the Government in the post-office department shall be responsible for any such loss or damage unless that person had caused such loss or damage maliciously or fraudulently.

Fines how to be levied.

XXXII. And it is hereby enacted, that all fines incurred under any of the preceding provisions of this Act, may be levied on conviction before any magistrate or justice of the peace, or before any person exercising the powers of a magistrate; provided always, that no person not a postmaster-general, or postmaster, shall be competent to institute any prosecution for any violation of any of the preceding provisions of this Act.

Punishment for fraudulent appropriation of letters.

XXXIII. And it is hereby enacted, that whoever being in the employ of the Government in the post-office department, or being in the employ of any person or persons who may contract with the Government to

convey letters or packets by post for hire, shall fraudulently appropriate any letter or packet which may have been entrusted to him, or anything contained in any such letter or packet, or shall open any such letter or packet, or any banghy-box, with the intention of fraudulently appropriating anything therein contained, shall be punished with imprisonment, with or without hard labour, for a term not exceeding seven years, and shall also be liable to fine.

Punishment for fraudulent appropriation of postage.

XXXIV. And it is hereby enacted, that whoever, being in such employ as is described in the last section, and being entrusted to receive money for postage duty, shall fraudulently appropriate the same, shall be punished, on conviction before a magistrate, with imprisonment, with or without hard labour, for a term not exceeding two years, and shall also be liable to fine.

Punishment for frauds in respect of marks on letters.

XXXV And it is hereby enacted, that whoever, being in such employ as is described in Section XXXIII., shall fraudulently put any wrong mark on any letter or packet, or shall fraudulently alter or cause to disappear any mark which is on any letter or packet, shall be punished, on conviction before a magistrate, with imprisonment, with or without hard labour, for a term not exceeding two years, and shall also be liable to fine.

Punishment for frauds in preparing, altering, or secreting documents.

XXXVI. And it is hereby enacted, that whoever, being in such employ as is described in Section XXXIII., and being entrusted with the preparing or keeping of any document, shall with a fraudulent intention prepare that document incorrectly, or alter that document, or secrete or destroy that document, shall be punished, on conviction before a magistrate, with imprisonment, with or without hard labour, for a term not exceeding two years, and shall also be liable to fine.

Punishment for fraudulent insertion of letters in wallets.

XXXVII. And it is hereby enacted, that whoever, being in such employ as is described in Section XXXIII., puts any letter or packet into the wallets of the post-office, intending thereby to defraud the Government of the postage duty on such letter or packet, shall be punished, on conviction before a magistrate, with imprisonment, with or without hard labour, for a term not exceeding two years, and shall also be liable to fine.

Tola weight equal to one rupee

XXXVIII. And it is hereby declared, that the tola weight mentioned in this Act is the tola of 180 grains troy, being the standard weight of the Company's rupee.

Date from which Act to have effect.

XXXIX. And it is hereby enacted, that this Act shall have effect from the 1st day of October, 1837, and that no postage duty shall be levied under the authority of this Act on any letter which shall be received at any post-office before the said 1st of October, 1837.

Schedule (A.) of Postage Duties on Letters, Parcels, Newspapers, &c., and of Banghy Postage.

See Act XX., 1838, and Act XVII., 1839.

1. Letters.

Miles.	Single. Not exceeding One Tola.	Double. Exceeding One Tola and not exceeding Two Tolas.	
	Annas.	*Rupees.*	*Annas.*
20	1	0	2
50	2	0	4
100	3	0	6
150	4	0	8
200	5	0	10
250	6	0	12
300	7	0	14
400	8	1	0
500	9	1	2
600	10	1	4
700	11	1	6
800	12	1	8
900	13	1	10
1,000	14	1	12
1,200	15	1	14
1,400	1 rupee	2	0

And upwards—single postage being added for each additional tola.

2. Law Papers, Accounts, and Vouchers, attested as such with the full signature of the sender.

Miles.	Single. Not exceeding Three and a half Tolas.	Double. Exceeding Three and a half Tolas, and not exceeding Six Tolas.	
	Annas.	*Rupees.*	*Annas.*
20	1	0	2
50	2	0	4
100	3	0	6
150	4	0	8
200	5	0	10
250	6	0	12
300	7	0	14
400	8	1	0
500	9	1	2
600	10	1	4
700	11	1	6
800	12	1	8
900	13	1	10
1,000	14	1	12
1,200	15	1	14
1,400	1 rupee	2	0

And upwards—single postage being added for every three additional tolas.

3

Newspapers, Pamphlets, and other Printed or Engraved Papers, packed in short covers, open at each end.

Distance.	Newspapers, Pamphlets, &c. printed in India. Weight. Not exceeding Three and a half Tolas.	Exceeding Three and a half Tolas, and not exceeding six Tolas.	Exceeding Six Tolas, and not exceeding Nine Tolas.	Imported Newspapers, Pamphlets, &c. Weight. Not exceeding Six Tolas.	Exceeding Six Tolas, and not exceeding Twelve Tolas.
	Annas.	*Annas.*	*Annas.*	*Annas.*	*Annas.*
Not exceeding 20 miles	1	2	3	1	2
— .. 400 ,, ...	2	4		2	4
Above .. 400 ,, ...	3	6		3	6
	Single postage being added for every additional three tolas.			Single postage being added for every additional six tolas.	

4.

Parcels sent by the Public Banghy not exceeding 600 Tolas in weight, nor 15 Inches long by 12 deep and 12 broad, or 2,160 cubic Inches in size.

Distance. Not exceeding Miles	Weight. Not exceeding Tolas 50.	100.	150.	200.	250.	300.	350.	400.	450.	500.	550.	600.
	Rs. As.	*Rs. As.*	*Rs. As.*	*Rs. As.*	*Rs. As.*	*Rs. As.*	*Rs. As.*	*Rs. As.*	*Rs. As.*	*Rs. As.*	*Rs. As.*	*Rs. As.*
50	0 6	0 12	1 2	1 8	1 14	2 4	2 10	3 0	3 6	3 12	4 2	4 8
100	0 9	1 2	1 11	2 4	2 13	3 6	3 15	4 8	5 1	5 10	6 3	6 12
150	0 12	1 8	2 4	3 0	3 12	4 8	5 4	6 0	6 12	7 8	8 4	9 0
200	0 15	1 14	2 13	3 12	4 11	5 10	6 9	7 8	8 7	9 6	10 5	11 4
250	1 2	2 4	3 6	4 8	5 10	6 12	7 14	9 0	10 2	11 4	12 6	13 8
300	1 5	2 10	3 15	5 4	6 9	7 14	9 3	10 8	11 13	13 2	14 7	15 12
400	1 8	3 0	4 8	6 0	7 8	9 0	10 8	12 0	13 8	15 0	16 8	18 0
500	1 11	3 6	5 1	6 12	8 7	10 2	11 13	13 8	15 3	16 14	18 9	20 4
600	1 14	3 12	5 10	7 8	9 6	11 4	13 2	15 0	16 14	18 12	20 10	22 8
700	2 1	4 2	6 3	8 4	10 5	12 6	14 7	16 8	18 9	20 10	22 11	24 12
800	2 4	4 8	6 12	9 0	11 4	13 8	15 12	18 0	20 4	22 8	24 12	27 0
900	2 7	4 14	7 5	9 12	12 3	14 10	17 1	19 8	21 15	24 6	26 13	29 4
1,000	2 10	5 4	7 14	10 8	13 2	15 12	18 6	21 0	23 10	26 4	28 14	31 8
1,200	2 13	5 10	8 7	11 4	14 1	16 14	19 11	22 8	25 5	28 2	30 15	33 12
1,400 and upwards	3 0	6 0	9 0	12 0	15 0	18 0	21 0	24 0	27 0	30 0	33 0	36 0

SCHEDULE (A.)—*continued.*

5.

BOOKS, PAMPHLETS, Packets of Newspapers, and any written, printed, or engraved Papers, sent by the public Bangby, not exceeding forty Tolas in weight, and packed in short covers, open at each end

Not exceeding Miles	Not exceeding Twenty Tolas	Exceeding Twenty Tolas, and not exceeding Forty Tolas	
	Annas	*Rupees*	*Annas.*
100	2	0	4
200	3	0	6
300	4	0	8
400	5	0	10
500	6	0	12
600	7	0	14
700	8	1	0
800	9	1	2
900	10	1	4
1,000	11	1	6
1,100	12	1	8
1,200	13	1	10
1,300	14	1	12
1,400	15	1	14
upwards	1 rupee	2	0

SCHEDULE (B)

SHIP POSTAGE, to be Levied in addition to Land Postage, on Letters received or sent by Sea.

LETTERS		Newspapers, Pamphlets, and other printed Papers, packed in short covers, open at each end.	Parcels not exceeding 300 Tolas Weight
Outward	Inward		
Not exceeding Three Tolas	Not exceeding Three Tolas	Not exceeding Six Tolas Weight.	Not exceeding 100 Tolas Weight
Annas	*Annas*	*Annas*	*Annas.*
2	3	1	2
An anna being added for every additional tola		An anna being added for every additional six tolas weight.	Two annas being added for every additional 100 tolas up to 300 tolas, beyond which no Parcel will be received.

See Act XVII. 1839.

A D. 1837. ACT XVIII.

PASSED *by the Right Honourable the Governor-General of India in Council, on the 7th August,* 1837.

See Act XVIII, 1839, and XXIV, 1843

Committal and trial of Thugs

IT is hereby enacted, that any person charged with murder by Thuggee, or with the offence of having belonged to a gang of Thugs, made punishable by Act No. XXX. of 1836, may be committed by any magistrate or joint magistrate within the territories of the East-India Company for trial before any criminal court competent to try such person on such charge.

A.D. 1837. ACT XIX.

PASSED *by the Right Honourable the Governor-General of India in Council, on the 7th August*, 1837.

Convicted persons not incompetent to give evidence.

IT is hereby enacted, that no person shall by reason of any conviction for any offence whatever be incompetent to be a witness in any stage of any cause, civil or criminal, before any court in the territories of the East-India Company.

A.D. 1837. ACT XXI.

PASSED *by the Right Honourable the Governor-General of India in Council, on the 25th September*, 1837.

Power of Governor in Council to dispense with oaths,

I. IT is hereby enacted, that from the 1st day of October, 1837, it shall be lawful for the Governor in Council of any presidency of which there is a Council, and for the Governor of any presidency of which there is no Council, to dispense with any oath which by any Regulation of that presidency, or by any Act of the Governor-General of India in Council, is now required to be taken, and that it shall be lawful for the Lieutenant-Governor of the North-west Provinces to dispense with any oath which by any Regulation or any Act of the Governor-General of India in Council now in force within those provinces is now required to be taken.

See Sec. IV Act V., 1840

but not with judicial oaths

II. Provided always, that the dispensing power given by this Act shall not extend to any oath now required by law to be taken in any stage of any judicial proceeding.

Declaration to be substituted for oath

III. And it is hereby enacted, that whenever any oath is dispensed with under the authority given by this Act, the person who but for such dispensation would have been legally required to take such oath shall, in the presence of the functionary by whom, but for such dispensation, such oath would have been administered, make and subscribe a declaration in writing to the same effect with such oath.

False declarations to be subject to same punishment as perjury.

IV. And it is hereby enacted, that whoever shall, in any declaration made and subscribed according to the provisions of this Act, knowingly state any untruth, such that if that untruth had been stated on oath, the person stating it would have been guilty of perjury, shall be punished with imprisonment for a term not exceeding one year, or fine, or both.

A.D. 1837. ACT XXII.

PASSED *by the Right Honourable the Governor-General of India in Council, on the 25th September*, 1837.

Offences against the revenue in Madras not cognizable by courts of Chingleput,

I. IT is hereby enacted, that from the 1st day of November, 1837, neither the *criminal judge* nor the magistrate of the zillah of Chingleput, shall have any jurisdiction in respect of offences committed within the collectorate of Madras against any Regulation relating to the public revenue.

but by superintendent of police at Madras.

II. And it is hereby enacted, that the whole jurisdiction now belonging to the said *criminal judge*, and also the whole jurisdiction now belonging to the said magistrate in respect of such offences, shall, from the 1st day of November, 1837, belong to the superintendent of police of the town of Madras, and to every one of the deputies of the said superintendent, and shall be exercised by the said superintendent, and by every one of the said deputies, according to the rules by which the said *criminal judge* and the said magistrate are now bound to exercise the same.

Calendars and other reports to be furnished by superintendent of police to Foujdarry Adawlut.

III. Provided always, that in the exercise of this jurisdiction the said superintendent of police and the said deputies shall not be subject to the orders of the *Court of Circuit for the centre division of the Madras territories*, nor be bound by any rule in the Madras code of Regulations to furnish any calendar, list, or report to that court, but shall be immediately subject to the orders of the Court of Foujdarry Adawlut, and shall furnish to the Court of Foujdarry Adawlut such lists or calendars of charges preferred before them, or of persons sentenced to punishment by them, as the said Court of Foujdarry Adawlut may direct.

Superintendent of police may commit to any gaol within the Madras collectorate.

IV. Provided always, that it shall be lawful for the said superintendent and every one of the said deputies, in cases in which the said *criminal judge* or the said magistrate would now be empowered to commit any person to the gaol of Chingleput, to commit such person to any gaol within the collectorate of Madras.

Convicts removable by order of Foujdarry Adawlut.

V. Provided also, that the provisions of Clause 5th of Section VIII. of Regulation XV. of 1803, of the Madras code, shall be applicable to all convicts on whom sentence of imprisonment shall have been passed by the said superintendent of police, or by any of the said deputies, in the exercise of the jurisdiction transferred to them by this Act.

A.D. 1837. ACT XXIII.

PASSED *by the Right Honourable the Governor-General of India in Council, on the 2nd October*, 1837.

Governor in Council may authorize principal sudder ameens to commit in certain cases.

IT is hereby enacted, that it shall be competent to the Governor in Council of Fort St. George, by an order in Council, to invest principal sudder ameens at stations where *gaol deliveries* are held, with the same powers of commitment in cases of perjury as are exercised by the *criminal judges* under Section III., Regulation VIII. of 1829, of the Madras code.

A.D. 1837. ACT XXX.

PASSED *by the Honourable the President of the Council of India in Council, on the 20th November*, 1837.

Police and criminal judicial power of ameens of police.

IT is hereby enacted, that from the 15th day of December, 1837, all ameens of police who have been or may be appointed according to Section XL., Regulation XI. of 1816, of the Madras code, to act with the police powers vested in tahsildars by that Regulation, shall possess all police powers and criminal judicial powers which are vested in tahsildars within the territories subject to the Presidency of Fort St. George, by any law or regulation whatever, and shall be subject to all provisions to which, by any law or regulation, tahsildars are subject in respect of any of those powers.

A.D. 1837. ACT XXXI.

PASSED *by the Honourable the President of the Council of India in Council, on the 20th November*, 1837.

Operation of part of Act XVII., 1835, suspended.

I. IT is hereby enacted, that so much of Act No. XVII. of 1835 as directs that certain coins issued from the mints within the territories of the East-India Company shall bear on the obverse the head of the reigning sovereign of the United Kingdom of Great Britain and Ireland shall be suspended, till the Governor-General of India in Council shall, by an order in Council, declare those parts of the said Act to be again in force.

See Sec. ii., Act XX., 1838.

II. And it is hereby enacted, that till the said Governor-General in Council shall make such an order in Council as is aforesaid, the said coins shall bear on their obverse the head of his late Majesty William the Fourth.

What device coins shall bear.

A.D. 1837. ACT XXXII.

PASSED *by the Honourable the President of the Council of India in Council, on the 20th November*, 1837.

[Emigration.]—*Repealed by Act XIV.*, 1839.

A.D. 1837. ACT XXXIII.

PASSED *by the Honourable the President of the Council of India in Council, on the 20th November*, 1837.

I. IT is hereby enacted, that from the 15th day of December, 1837, the provisions of Clauses Second and Third, Section IV., Regulation IV. of 1821, of the Madras code, shall apply to all petty offences cognizable by heads of district police, as well as to petty thefts.

Heads of district police to deal with all petty offences as with petty thefts.

II. And it is hereby enacted, that whenever any head of district police shall, under those provisions, report any case whatever to a magistrate for final orders, such head of district police shall state precisely in his report the description and extent of the punishment which, in his opinion, is proper to be inflicted in that case; and the said magistrate, if he gives orders at variance in any respect with that opinion, shall record his reasons for varying from it.

How to report cases for final order of magistrate.

A.D. 1837. ACT XXXIV.

PASSED *by the Honourable the President of the Council of India in Council, on the 20th November*, 1837.

I. IT is hereby enacted, that from the 15th day of December, 1837, Section VI., Regulation VIII., of 1827, of the Madras code, shall be

Magistrates may send persons to principal sudder ameens for trial,

committal, or confinement.

repealed; and that it shall be lawful for magistrates, under the government of the Presidency of Fort St. George, to send persons for trial, committal, or confinement, to principal sudder ameens, any provision of any Regulation to the contrary notwithstanding.

Proviso, excepting Europeans and Americans.

II. Provided always, that it shall not be lawful to send any European or American for such purpose to a principal sudder ameen, but that magistrates shall send Europeans and Americans for trial, committal, or confinement, to the *criminal judges*, as heretofore.

A.D. 1837. ACT XXXV.

PASSED *by the Honourable the President of the Council of India in Council, on the* 20*th November*, 1837.

Repeal of rules respecting translations of decrees.

I. IT is hereby enacted, that from the 15th day of December, 1837, all provisions of any Regulation of the Madras code, which direct that any translations of decrees passed by the Court of Sudder Adawlut, or by the *Provincial Courts*, or by the courts of zillah judges, or by the auxiliary courts, under the presidency of Fort St. George, shall be attached or appended to those decrees, or shall be furnished to parties in the suits wherein those decrees are passed, shall be repealed.

Abstract decree to be entered in court's diary.

Copy may be furnished to party.

II. And it is hereby enacted, that from the said day an abstract of every such decree, containing a succinct statement of the grounds of judgment, shall, on the day of the promulgation of the decree, be entered in the diary of the court passing the decree; and every party in the suit wherein the decree is passed shall be entitled to be furnished with a copy of that abstract, on application for a copy thereof, or with a translation of that abstract in a current language of the district or country, on application for such a translation.

New rules for calculating period of appeal.

III. And it is hereby enacted, that from the said day all rules now in force within the presidency of Fort St. George, for determining from what days the limited periods for appealing from decrees of the Sudder Adawlut, or of the *Provincial Courts*, or of the zillah judges, or of the zillah *assistant* judges, [*or of the zillah registers*,] shall be computed, shall be repealed; and that such limited periods for appealing from any such decree shall be computed from the day on which the decree is sealed and signed, agreeably to Section XXVII., Regulation III. of 1802, of the Madras code: Provided always, that if, within such limited period as aforesaid, an application be made by a plaintiff or defendant for a copy of the decree, or for a copy or a translation of the abstract mentioned in the clause last preceding, or for both a copy of the decree and a copy or a translation of the abstract; and if the document or documents so applied for be

Proviso.

not delivered or tendered on the same day to the party applying, then, for every day of such delay not attributable to that party, a day shall be added to the period allowed for appealing, in as far as the right of that party is concerned.

IV. And it is hereby enacted, that the day on which the time for appealing will expire, shall be certified at the end of every document furnished to any party according to the last preceding clause.

Expiration of limited period to be certified

V. And it is hereby enacted, that on the day on which any such decree is sealed and signed, the day on which the original limited period for appealing will expire shall be proclaimed in open court.

and proclaimed in court.

A.D. 1837. ACT XXXVI.

PASSED *by the Honourable the President of the Council of India in Council, on the 20th November*, 1837.

I. IT is hereby enacted, that from the 15th day of December, 1837, the jurisdiction vested in collectors, subordinate collectors, and assistant collectors by Regulations IX. of 1822 and VII. of 1828 of the Madras code, in cases of embezzlement of public money, and of the falsification, destruction, or concealment of any public account, record, voucher, or document relating to public money, shall extend to cases of the embezzlement of any public property, or the falsification, destruction, or concealment of any public account, record, voucher, or document relating to any public property, by any person of any of the classes described in the Third Clause of Section II. of the said Regulation IX. of 1822.

Powers of collector under Regulation IX., 1822, and VII., 1828, extended in respect of the nature of the offence,

II. And it is hereby enacted, that from the said day, all provisions of either of the said Regulations IX. of 1822 and VII. of 1828, which apply to cases of the embezzling of public money, shall apply to cases of the embezzling of any public property whatever, by persons of any of the classes described in the Third Clause of Section II. of the said Regulation IX. of 1822; and that all provisions of either of those Regulations, which apply to cases of the falsification, destruction, or concealment of any public account, record, voucher, or document relating to public money, shall apply to cases of the falsification, destruction, or concealment of any public account, record, voucher, or document relating to any public property whatever, by persons of any of the said classes.

and in respect of the parties charged with the commission of the offence.

A.D. 1838. ACT III.

PASSED *by the Honourable the President of the Council of India in Council, on the 5th January,* 1838.

Rescission.

I. It is hereby enacted, that Act No. VIII. of 1837 be repealed.

Jurisdiction of a *joint criminal judge* at Cochin.

II. And it is hereby enacted, that whenever the Governor in Council of Fort St. George shall appoint a *joint criminal judge* * of Cochin, and give to such *joint criminal judge* jurisdiction over the districts of Anjengo and Changancherry, such *joint criminal judge* shall exercise, within his jurisdiction, all the powers of joint magistrate, as defined in the Madras Regulations.

* By the Order in Council, dated 28th July, 1843, a Principal Sudder Ameen was appointed for Cochin. See Appendix to the Prefatory Note, page vi.

A.D. 1838. ACT XII.

PASSED *by the Honourable the President of the Council of India in Council, on the 21st May,* 1838.

Powers of principal sudder ameens in cases of hidden treasure.

IT is hereby enacted, that from the 1st day of July, 1838, all powers vested by Regulation XI. of 1832, of the Madras code, in zillah or *assistant* judges, shall be vested in every principal sudder ameen within the territories subject to the Government of the Presidency of Fort St. George, in respect of all hidden treasure of any of the kinds specified in Section II. of that Regulation, which may be found within his jurisdiction; and all rules applicable to zillah or *assistant* judges shall be applicable to every such principal sudder ameen, in respect of such treasure.

A.D. 1838. ACT XIV.

PASSED *by the Honourable the President of the Council of India in Council, on the 16th July,* 1838.

Regulations III., 1820, and IX., 1831, may be extended to ganjah and bhang.

IT is hereby enacted, that it shall be competent to the Governor in Council of Fort St. George, by an order in Council, to extend the pro-

visions of Regulations III. of 1820, and IX. of 1831, to the articles of ganjah and bang:—the quantity of ganjah and bang which each person shall be allowed to have in his possession without a license, within the limits specified in any such order, shall not exceed one half-vis.

A.D. 1838. ACT XVII.

PASSED *by the Honourable the President of the Council of India in Council, on the* 13*th August*, 1838.

A summary appeal shall lie from district moonsifs to zillah and *assistant* judges.

I. IT is hereby enacted, that from the 1st day of September, 1838, it shall be competent to the zillah judges, the *assistant* judges of auxiliary courts, and the principal sudder ameens in the territories subject to the Presidency of Fort St. George, to receive a summary appeal from the orders or decrees of the district moonsifs stationed within their respective jurisdictions, in cases in which such district moonsifs may have refused to admit any suit regularly cognizable by them, or may have dismissed, on the ground of delay, informality, or other default, without an investigation of the merits of the case, any such suit which they may have admitted, or any suit regularly referred to them by superior authority.

Clause eleventh was repealed by Sec. ii., Act I., 1846.

Application of certain clauses of Section V., Regulation XV., 1816.

II. And it is hereby enacted, that the provisions contained in the fifth and *six* following clauses of Section V., Regulation XV. of 1816, of the Madras code, regarding summary appeals, shall apply to the summary appeals preferred under the authority of this Act.

A.D. 1838. ACT XX.

PASSED *by the Honourable the President of the Council of India in Council, on the* 27*th August*, 1838.

Repeal.

I. IT is hereby enacted, that from the 1st day of October next, Section VIII., Act XVII., 1837, be repealed.

What may be sent by post where there is no bhangi.

II. And it is hereby enacted, that when there is no bhangi post established on any line of road, letters and packets exceeding in weight twelve tolas, and not exceeding forty tolas, shall be received by postmasters for transmission by the letter post under the rules which follow.

Rate of charge on packets above twelve tolas' weight.

First.—If the letter or packet received for dispatch be of the description specified in heads Nos. 1, 2, and 3 of the Schedule (A.) annexed to

Act XVII. of 1837, the postage duty thereon shall be levied by rateable increase, as declared and provided in the said heads of the said schedule, and the postmasters shall forward every such letter or packet on the same terms, the postage charge being rateably increased, as is provided in the said Act for letters and packets not exceeding twelve tolas in weight.

What packets above twelve and not exceeding forty tolas will be forwarded

Second.—If any packets exceeding twelve tolas in weight, and not exceeding forty tolas, when so brought for dispatch along a road where there is no regular bhangi post established, be certified by attestation written on the cover not to contain any of the things specified as subject to rateable postage duty under heads Nos. 1, 2, and 3 of the said schedule; and further, if it be so certified that such packets do not contain any writing in contravention of Sections IX. and X., Act XVII. of 1837, every such packet shall in like manner be forwarded by the letter post, being charged with duty as specified and prescribed in Table 4, Schedule (A.) for bhangi parcels: provided, however, that it shall be in the power of the postmaster at the place of delivery to proceed for the discovery of any fraud or contravention of the law in respect of all packets so conveyed by the letter post at bhangi postage rates, in the manner prescribed in Section XXX., Act XVII., 1837: provided also, that Government shall not be responsible for any loss or damage which may occur in respect of any thing entrusted to the postmaster for conveyance by virtue of this Act, and that no person employed by the Government in the post-office department shall be responsible for any such loss or damage, unless such person has caused such loss or damage maliciously or fraudulently.

Provisoes

Packets above forty tolas will be forwarded at the discretion of the postmaster

Proviso

III. And it is hereby enacted, that if packets exceeding forty tolas in weight be brought for dispatch by the letter post at bhangi rates, the same may be forwarded under the rules and restrictions prescribed in the preceding section of this Act: provided, however, that the transmission of such over-weight packets shall always be discretional with the postmaster to whom they may be brought for dispatch, to forward them at such times and in such manner as may be convenient.

Packets brought for bhangi post shall not be returned

IV. And it is hereby enacted, that no packet brought for dispatch by bhangi post, shall be returned from any post-office on the ground, that the bhangi post has not been laid for the whole distance to the place of delivery.

Fines for fraudulent endorsements on letters or packets

V. And it is hereby enacted, that, except as hereinafter is mentioned, if any person wilfully certify or cause to be certified by writing on any letter, cover, or packet delivered at any post-office for conveyance by post, what is not true in respect of such letter or packet, or in respect of its contents, for the purpose of defrauding the post-office revenue, every such person shall, on conviction, be subject to a fine of fifty rupees for every such offence.

Fine for inserting papers in a packet different from those attested by the endorsement on the cover Table 2, Schedule (A.)

VI. And it is hereby enacted, that whoever shall send, or cause to be sent, by the government post any packet under the provisions of this Act, of the description mentioned in Table 2 of Schedule (A.), Act No. XVII., A.D. 1837, which shall contain any writing whatever other than writing which is necessarily part of the documents which such packet is stated to

contain by attestation on the cover of such packet, knowing that it contains any writing not necessarily part of the documents which such packet is stated to contain by attestation on the cover, shall be punished with a fine of fifty rupees.

Same in respect of Table 3, Schedule (A.)

VII. And it is hereby enacted, that whoever shall send, or cause to be sent, by the government post under the provisions of this Act, any packet of the description mentioned in Table 3 of Schedule (A.), Act No. XVII., A.D. 1837, which shall contain any writing whatsoever, except the direction on the cover, knowing that it contains any writing other than the direction on the cover, shall be punished with a fine of fifty rupees.

How fines incurred under this Act and under Sections IX. and X., Act XVII., 1837, are to be levied.

VIII. And it is hereby enacted, that all fines incurred on account of letters or packets sent by the letter post, or by the bhangi post, in contravention of the provisions of Sections IX. and X. of Act XVII. of 1837, as well as all fines by this Act authorized to be imposed, shall be demanded from the parties liable thereto by notice in writing from the postmaster-general, or from any postmaster; and if not paid upon such demand, the same shall, upon conviction of the offender before any magistrate for the place where the party charged may be residing, be levied, together with the costs attending the information and conviction, by distress and sale of the goods and chattels of the party or parties offending, by warrant under the hand of such magistrate; and if upon the return of such warrant it shall appear that no sufficient distress can be had thereon, then it shall be lawful for any such magistrate, by warrant under his hand and seal, to cause such offender or offenders to be committed to prison, there to remain for the space of two calendar months, unless such fines and all reasonable charges attending the same shall be sooner paid and satisfied.

Letters may be detained till fine is paid.

IX. And it is hereby enacted, that it shall be lawful for the postmaster to detain any letter or packet in respect of which any party shall become liable to fine for a contravention of Sections IX. and X. of Act XVII., 1837, or of any of the provisions of this Act, until the fine and all reasonable charges attending the same shall have been duly paid.

A.D. 1838. ACT XXI.

PASSED *by the Honourable the President of the Council of India in Council, on the 27th August,* 1838.

Silver coins of even annas' value may be issued by Governor-General in Council.

I. IT is hereby enacted, that it shall be lawful for the Governor-General of India in Council, in his executive capacity, to direct the coinage, and issuing of any silver coins, of a value represented in even annas or six-

teenths of the Company's rupee, provided they be of the same standard as that prescribed for such rupee by the Act No. XVII. of 1835, and of proportionate weight.

Devices, &c. on such coins.

II. And it is hereby enacted, that the provisions of Act No. XVII. of 1835, and of Act No. XXXI. of 1837, applicable to the devices, inscriptions, and embellishments of the coins coined and issued by virtue of the Act No. XVII. of 1835, shall be applicable to the coins which may be coined and issued by virtue of this Act.

A.D. 1838. ACT XXIII.

PASSED *by the Honourable the President of the Council of India in Council, on the 17th September*, 1838.

Personal and hereditary grants not liable to attachment by courts.

IT is hereby enacted, that so much of Section III., Regulation IV. of 1831, of the Madras code, as saves and excepts the liability to attachment or sequestration in certain cases of the grants mentioned in Section II. of the said Regulation, be repealed; and that such grants shall not be liable to attachment or sequestration in satisfaction of any decree or order of any court whatever.

A.D 1838. ACT XXVI.

PASSED *by the Honourable the President of the Council of India in Council, on the 8th October*, 1838.

Where persons committed by the principal sudder ameen of Sursee shall be tried.

I. *IT is hereby enacted, that it shall henceforth be lawful for the Governor in Council of the Presidency of Fort St. George to direct that all or any persons committed by the principal sudder ameen of Sursee for trial *before the Court of Circuit for the western division of the territories subject to that Presidency*, shall be tried at the sessions *of gaol delivery to be* held at Honore.

Governor in Council may direct at what stations persons committed by principal sudder ameens shall be tried.

II. And it is hereby enacted, that it shall henceforth be lawful for the Governor in Council of the Presidency of Fort St. George to direct that all or any persons committed by any principal sudder ameen for trial *before the Court of Circuit* shall be tried at any sessions *of gaol delivery to be held at any station* within the zillah to which the court of such principal sudder ameen may be attached.

* See the Order in Council of 28th July, 1843, published under the provisions of Sec. i., Act VII., 1843, appended to the Prefatory Note at the beginning of this volume, and Secs. xxvi. and xxvii., Act VII., 1843.

A.D. 1839. ACT II.

PASSED *by the Honourable the President of the Council of India in Council, on the 4th February,* 1839.

I. IT is hereby enacted, that in all cases of fines by which offenders are or may be punishable by any magistrate, according to the provisions of any Act heretofore passed or which shall hereafter be passed by the Governor-General of India in Council, it shall be lawful, in case of non-payment, if no other means for enforcing the payment are or shall be provided by such Act or otherwise, for the magistrate, by warrant under his hand, to levy the amount of such fine by distress and sale of any goods and chattels of the offender which may be found within the jurisdiction of such magistrate; and if no such property shall be found within such jurisdiction, then it shall be lawful for every such magistrate, by warrant under his hand, to commit the offender to prison, there to be imprisoned only, or to be imprisoned and kept to hard labour, according to the discretion of such magistrate, for any term not exceeding two calendar months, where the amount of the fine shall not exceed fifty rupees, and for any term not exceeding four calendar months, where the amount shall not exceed one hundred rupees, and for any term not exceeding six calendar months in any other case, the commitment to be determinable in each of the cases aforesaid upon payment of the amount.

How fines imposed under any Act are to be enforced.

Imprisonment.

II. And it is hereby enacted, that in all cases in which offenders are or may be punishable by any magistrate with fine or imprisonment, or both, according to the provisions of any Act heretofore passed or which shall hereafter be passed by the Governor-General of India in Council, and where the extreme amount of the fine or imprisonment is not specified, it shall not be lawful for the magistrate to impose any fine exceeding 200 rupees, or to imprison the offender for any term exceeding six months.

Limits of fines and imprisonment.

III. And it is hereby enacted, that in all cases in which offenders are or may be punishable by fine before a magistrate, according to the provisions of any Act heretofore passed or which hereafter shall be passed by the Governor-General of India in Council, it shall be lawful for the magistrate, and he is hereby required, to receive proof of the commission of the offence *upon oath, or* upon solemn affirmation in cases where a solemn affirmation is receivable by law instead of an oath.

Proof in cases liable to fine.

IV. And it is hereby declared and enacted, that in this Act and in all Acts heretofore passed by the Governor-General of India in Council, the terms "fine" and "fines" shall extend to all "penalties" and "forfeitures," and the term "magistrate" shall extend to all "joint magistrates," "persons lawfully exercising the powers of a magistrate," and "justices of the peace."

Definitions of terms "fine" and "magistrate."

A.D. 1839. ACT III.

PASSED *by the Honourable the President of the Council of India in Council, on the* 18*th February*, 1839.

No one to be exempt from jurisdiction of revenue courts by reason of birth or descent.

I. IT is hereby enacted and declared, that within the British territories under the government of the East-India Company, no person whatever is or shall be, by reason of place of birth or by reason of descent, in any proceeding whatever connected with arrears or exactions of rent, excepted from the jurisdiction of the Revenue Courts, any thing in Act No. XI. of 1836 contained notwithstanding.

Proceedings before the passing of this Act declared valid.

II. And it is hereby enacted, that no such proceeding which may have been instituted before the passing of this Act in any such court, and no decree which may have been passed before the passing of this Act in any such proceeding by any such court, shall be treated as invalid by reason of the place of birth, or by reason of the descent of any party to such proceeding or to such decree.

No exception from civil proceedings for arrear or exaction of rent, on account of descent or birth.

III. And it is hereby enacted, that within the said territories no person whatever shall, by reason of place of birth, or by reason of descent, be, in any civil proceeding whatever connected with arrears or exactions of rent, excepted from the jurisdiction of the courts of the moonsifs.

A.D. 1839. ACT VII.

PASSED *by the Honourable the President of the Council of India in Council, on the* 18*th March*, 1839.

Repeal of Section XXIII., Regulation XXVIII., 1802.

I. IT is hereby enacted, that from the 1st day of May, in the year of our Lord 1839, Section XXIII. of Regulation XXVIII. of 1802, of the Madras code, shall be repealed, and all commissions whereby commissioners for the sale of distrained property may have been appointed under the provisions of that section shall be annulled.

Tahsildars to have authority of commissioners for sale of distrained property.

II. And it is hereby enacted, that from the said day all tahsildars within the territories subject to the Presidency of Fort St. George shall be vested with the powers of commissioners for the sale of property dis-

trained for arrears of rent or of revenue, and shall be subject to all rules and provisions to which by any law or regulation such commissioners are subject.

III. Provided always, that in respect of the exercise of those powers tahsildars shall be subject to the control and superintendence of the collector, and shall not be subject to the authority of the zillah judge, except in the case of any judicial proceedings.

To be subject to collectors, not to zillah judges.

IV. Provided also, that tahsildars shall be subject to the same liabilities, in respect of the exercise of the said powers, to which they are subjected by Section X., Regulation IX. of 1822, of the Madras code, in cases in which they conduct sales under the provisions of that Regulation.

To be subject to the provisions of Section X., Regulation IX., 1822

V. Provided also, that tahsildars shall not be entitled to any fee or commission for selling such distrained property; but that all fees or commission which may be now lawfully taken by commissioners for the sale of such distrained property shall be taken and carried to the account of Government.

Fees and commission on such sales to be carried to account of Government

VI. And it is hereby enacted, that tahsildars shall have authority, subject to the orders of the collector, to delegate the powers vested in them by the second section of this Act to any public servants placed under their authority; and that the provisions of the three last preceding sections of this Act shall apply to all public servants to whom those powers shall have been so delegated, in the same manner as they apply to tahsildars.

Tahsildars may delegate their authority, subject to orders of collector

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A.D. 1839. ACT XI.

PASSED *by the Honourable the President of the Council of India in Council, on the 22nd April,* 1839.

I. IT is hereby enacted, that from the time of the passing of this Act, no stamp-duty or institution-fee shall be payable in respect of any proceeding in any appeal, or in respect of any paper or copy of any paper necessary for any appeal from any court of the East-India Company to her Majesty in Council.

No stamps in appeal to her Majesty in Council.

A.D. 1839. ACT XIII.

PASSED *by the Honourable the President of the Council of India in Council, on the 20th May*, 1839.

Consolidation of former port charges at Madras into one port duty on other than foreign, European, and American ships.

I. IT is hereby enacted, that the several charges of the port and roadstead of Madras, levied under the heads of anchorage duty, lighthouse duty, regular boat-hire, and report catamaran-hire, shall from and after the 1st day of August next be consolidated and commuted into a port duty, to be levied at the rate of three annas per ton upon every vessel, not being a vessel sailing under the colours of a foreign European or American nation, of which the tonnage shall not exceed 700 tons by measurement, made in the manner prescribed by Act 5 & 6 of Will. 4, c. 56, and if the vessel exceed 700 tons by measurement so made, the port duty shall be levied as upon that tonnage.

Amount on foreign European or American vessels.

II. And it is hereby enacted, that upon every vessel sailing under the colours of a foreign European or American nation, that may anchor in the port of Madras, there shall be levied a consolidated port duty at the rate of three annas six pie per ton, according to measurement made in the manner above prescribed.

Reduced duty on vessels not breaking bulk.

III. And it is hereby enacted, that if any vessels, British, native, or foreign, anchoring in the port of Madras, shall not break bulk therein, and shall not remain four complete days from the time of dropping anchor, there shall be levied upon such vessels reduced duties as follows: that is to say, two-fifths of the tonnage duty prescribed above shall be levied upon every vessel which, without breaking bulk, shall after anchoring therein sail again out of the port within forty-eight hours, and seven-tenths upon every vessel which, without breaking bulk, shall stay more than forty-eight hours and less than four complete days.

Port duties how to be enforced.

IV. And it is hereby enacted, that all powers and authorities, penalties and other means whereby the payment of any of the charges of the port and roadstead of Madras may have been legally enforced before the passing of this Act, shall be applicable to the enforcing of the consolidated and commuted port duties imposed by virtue of this Act.

Government of India may order consolidation of duties at subordinate ports.

V. And it is hereby enacted, that it shall be lawful for the Government of India to order the consolidation and commutation of any port or harbour duties, as levied in any subordinate port of any Presidency, into a tonnage duty, which shall be leviable at the rate and in the manner specified in the next following section of this Act, upon the vessels anchoring in and trading with such ports.

Amount of duty that may be imposed at any other port than Madras.

VI. And it is hereby enacted, that when the Governor-General of India in Council shall direct the port duties to be commuted and consolidated at any port of the Madras Presidency, other than that of Madras, or at any subordinate port of any other Presidency, the total amount

levied at such port shall not exceed one anna per ton for British and native vessels not exceeding 700 tons; and upon vessels exceeding that measurement, at the rate for 700 tons; and upon foreign European and American vessels, at the rate of one anna four pies per ton; and all vessels anchoring in any such outports shall be charged with reduced duty, in the proportions above provided for the port of Madras, if they leave such port without breaking bulk before completing four entire days from the time of anchoring therein.

Who may levy or enforce payment of port duties.

VII. And it is hereby enacted, that the consolidated and commuted port duties above prescribed, when ordered to be levied in any port by the Governor-General of India in Council, shall be levied by the officer appointed by the Government of the Presidency within which the port is situate to give port clearances or other customary documents to vessels sailing from such port; that is to say, by the master attendant, or by the collector of customs at such port, as may be ordered by such Government; and if such duties be not paid upon demand, it shall be competent to such officer to withhold from the vessel on account of which payment may be refused, any port clearance or other customary document required to be possessed by ships leaving such port, until the same shall be paid.

Powers to enforce duties and penalties at outports.

VIII. And it is hereby enacted, that all the powers and authorities, penalties and other means by which any port or harbour duty of any subordinate port of any Presidency which shall be consolidated and commuted by virtue of this Act, may have been legally enforced before the consolidation and commutation thereof as hereinbefore provided, shall be applicable to the enforcing of the consolidated and commuted duties at such port imposed by virtue of this Act.

A.D. 1839. ACT XIV.*

PASSED *by the Honourable the President of the Council of India in Council, on the 27th May,* 1839.

See Act XV., 1842.

Repeals

I. IT is hereby enacted, that Acts No. XXXII. of 1837 and No. V. of 1837 be repealed on the 1st day of July next.

Penalty for contracting with or abetting any native of India to emigrate out of the Company's territories.

II. And it is hereby enacted, that on and after the said 1st day of July next, every person who shall make with any native of India any contract for labour to be performed in any British or foreign colony without the territories of the East-India Company, or who shall knowingly abet or aid any native of India in emigrating from the said territories for the purpose

* This Act is repealed as relates to emigration from the ports of Calcutta, Madras, and Bombay to Jamaica, British Guiana, and Trinidad, by Act XXI. 1844. It is also repealed in as far as it operated to prevent the emigration of labourers to Ceylon by Act XIII., 1847.

of being employed as a labourer, shall be liable, on conviction before a magistrate or justice of the peace, to a fine not exceeding 200 rupees for every native so contracted with, aided, or abetted; and in default of payment of such fine, shall be liable to be imprisoned for a term not exceeding three months.

Proviso in favour of sailors and menial servants.

III. Provided always, that nothing in this Act contained shall be taken to apply to any native seaman who shall of his own free will contract to navigate any vessel, or who shall embark on board such vessel in pursuance of such contract, or to any person who shall contract to serve as a menial servant only, or who shall embark as such menial servant.

A.D. 1839. ACT XV.

PASSED *by the Honourable the President of the Council of India in Council, on the* 10*th June*, 1839.

Penalty for landing foreign sugar.

I. IT is hereby enacted, that if any person, on or after the day on which this Act will come into operation, as hereinafter provided, lands or attempts to land in any part of the territories subject to the Government of the Presidency of Fort St. George, any foreign sugar, or any sugar which is the growth of any British possession into which foreign sugar can be legally imported, such sugar shall be seized and confiscated by the collector of the customs, or by any other officer thereunto authorized by the Governor in Council of the said Presidency; provided always, that sugar which is the growth of any part of the Presidency of Fort William in Bengal into which foreign sugar, and sugar which is the growth of any British possession into which foreign sugar may be legally imported, are prohibited from being landed, may, during such prohibition, be landed in the said territories as heretofore.

See Act XI., 1842.

Proviso in favour of sugar the produce of Bengal.

Certificate of production how to be obtained.

II. And it is hereby enacted, that if any person being in possession of sugar, the produce of the said territories, desires to obtain a certificate of origin from the collector or assistant collector of the land or custom revenue of any district within the said territories, or from any other officer appointed by the Governor in Council of Fort St. George to give such certificates, such person shall, in the presence of the officer from whom he desires to obtain such certificate, make and subscribe a declaration in the form contained in the Schedule hereunto annexed, marked (A.).

Certificate to be granted on declaration.

III. And it is hereby enacted, that the officer before whom such a declaration as is aforesaid shall have been made, shall grant under his hand and seal to the declarant a certificate in the form contained in the Schedule hereunto annexed, marked (B.).

IV. And it is hereby enacted, that every person who intends to ship sugar from any place within the said territories for any part of the United Kingdom shall be entitled to produce to the collector of customs at that place, or to any other officer who may have been appointed by the Governor in Council of Fort St. George, to act on such occasions instead of the collector of customs, a certificate such as is above described, and also in the presence of the officer to whom he has so produced such certificate, to make and subscribe a declaration in the form contained in the Schedule hereunto annexed, marked (C.).

Declaration for export.

V. And it is hereby enacted, that the officer to whom such a certificate shall have been so produced, and before whom a declaration in the last-mentioned form shall have been so made and subscribed, shall grant to the person who has made the last-mentioned declaration a certificate in the form contained in the Schedule hereunto annexed, marked (D.).

Certificate to be granted thereon.

VI. And it is hereby enacted, that any person who shall, in making any declaration under the authority of this Act, knowingly affirm an untruth, shall, on conviction thereof, be punished by fine to an amount not exceeding 5,000 rupees, and imprisonment, with or without hard labour, for a term not exceeding two years.

Fine for false declaration.

VII. And it is hereby enacted, that this Act shall come into operation at the expiration of one year after the passing of this Act.

Operation when to commence.

SCHEDULES: (A.)

I, *A. B.*, solemnly declare that all the sugar hereunder described is, to the best of my knowledge and belief, the produce of this district of

Description of the Sugar to which the Declaration relates.

Quantity.	Quality.	Number and Denomination of Packages.

The day of 18 . (Signed) *A. B.*

(B.)

I, *C. D.*, collector of land revenue (or collector of custom revenue, or being an officer appointed by the Governor in Council of Fort St. George to act in this behalf) for this district of
do hereby grant this certificate, under my hand and seal, that the sugar hereinunder described is of the produce of this district of

and that the importation of foreign sugar, and of sugar the growth of any British possession into which foreign sugar can be legally imported, is prohibited in the said district of

Description of the Sugar to which this Certificate relates.

Quantity.	Quality.	Number and Denomination of the Packages.	Name of the Declarant on whose Declaration the Certificate is given.

(L.S.) (Signed) *C. D.*

(C.)

I, *E. F.*, shipper of the sugar hereunder described, solemnly declare that all the sugar hereunder described is, to the best of my knowledge and belief, the same sugar to which the certificate now produced by me relates.

Description of the Sugar to which the Declaration relates.

Quantity	Quality.	Number and Denomination of Packages.	Name of Ship in which the Sugar is shipped or to be shipped.	Name of the Master of the Ship.

(Signed) *E. F.*

(D.)

I, *G. H.*, collector of customs (or being an officer appointed by the Governor in Council of Fort St. George to act in this behalf) for the port of certify, under my hand and seal, that there has been produced to me by *E. F.*, the shipper of the sugar hereinunder described, a certificate, under the hand and seal of *C. D.*, collector of land revenue, (or collector of custom revenue, or being an officer appointed by the Governor in Council of Fort St. George to act in this behalf), for the district of , in the territories subject to the Government of the Presidency of Madras, which certificate certifies that the said sugar is the produce of the said district, and that the importation of foreign sugar, or sugar the growth of any British pos-

session into which foreign sugar can be legally imported, is prohibited in the said district.

Description of the Sugar to which this Certificate relates.

Quantity.	Quality.	Number and Denomination of Packages.	Name of the Ship.	Name of the Master of the Ship.

(L. S.) (Signed) *G. H.*

A.D. 1839. ACT XVII.

PASSED *by the Honourable the President of the Council of India in Council, on the* 1*st July*, 1839.

Governor-General in Council may alter rates of postage, but not increase them.

IT is hereby enacted, in modification of so much of Sections VI. and XIV. of Act No. XVII. of 1837 as provides that postage duties shall be levied at the rates set forth in Schedules (A.) and (B.) appended to the said Act, that it shall be competent to the Governor-General of India in Council, by an order and notice to be published in the Government Gazettes of the several Presidencies of India, to authorize the levy of postage duties at rates different from those severally specified in the Schedules (A.) and (B.) annexed to Act XVII., 1837, and to publish revised schedules from time to time to give effect to such modifications: Provided always, there be no increase made thereby in any particular of the rates prescribed in the said Schedules (A.) and (B.), and likewise to fix the time when the levy shall commence to be made at such modified rates, and to cancel or modify any order and notice so issued, by further similar order and notice; and the said revised schedules of rates shall, for so long as may be so ordered and notified, be of the same effect and validity as the schedules annexed to the said Act.

A.D. 1839. ACT XVIII.

PASSED *by the Honourable the President of the Council of India in Council, on the* 15*th July*, 1839.

Thuggee may be tried in other zillahs than where the offence was committed

IT is hereby enacted, that any person accused of the offence of murder by Thuggee, or of the offence of unlawfully and knowingly receiving or buying property stolen or plundered by Thuggee, may be tried by any court which would have been competent to try him if his offence had been committed within the zillah where that court sits, any thing contained in any Regulation or Regulations to the contrary notwithstanding.

See Act XXIV, 1843, and Act X., 1847.

A.D. 1839. ACT XXIII.

AN ACT *for authorizing Sentences of Imprisonment, with or without Hard Labour, by Courts Martial, in certain cases:* PASSED *by the Honourable the President of the Council of India in Council, on the* 23*rd September*, 1839.

Soldiers sentenced to dismissal may be imprisoned with or without labour

IT is hereby declared and enacted, that in all cases in which, by a general order of the Governor-General of India in Council, dated the 24th of February, in the year of our Lord 1835, it is made competent for courts martial to sentence soldiers of the native army in the service of the East-India Company to the punishment of dismissal from such service, it is and shall be lawful to sentence such soldiers to be imprisoned with or without hard labour for any period not exceeding two years, if the sentence be pronounced by a general court martial, or not exceeding one year if the sentence be pronounced by a garrison or line court martial, or not exceeding six months if the sentence be pronounced by a regimental or detachment court martial. And every soldier so sentenced to imprisonment with hard labour for any period whatever, or to imprisonment without hard labour for any period exceeding six months, shall after confirmation of his sentence be dismissed from such service: Provided always, that all sentences under this Act pronounced by any court martial inferior to a general court martial, shall require the confirmation of the general or other officer commanding the division or field force to which the person convicted belongs.*

See Act II, 1840, and Act XXVIII., 1841

Proviso.

* See Articles of War, Act XIX., 1847.

A.D. 1839. ACT XXIV.

AN ACT *for the Administration of Justice and Collection of the Revenue in certain parts of the districts of Ganjam and Vizagapatam:* PASSED *by the Honourable the President of the Council of India in Council, on the 2nd October,* 1839.

I. IT is hereby enacted, that from the 1st day of December, 1839, Act XXIII. of 1836, shall be repealed. Repeal.

See Sec. iii., Act XXI., 1845.

II. And it is hereby enacted, that from and after the said 1st day of December, 1839, the operation of the rules for the administration of civil and criminal justice, as well as those for the collection of the revenue, shall cease to have effect, except as hereinafter mentioned, within the undermentioned tracts of country at present included in the districts of Ganjam and Vizagapatam: Suspension of the regular administration of revenue and judicial laws in certain districts.

In the District of Ganjam.

Zemindaries.

Pauloor.
Hoomanah.
Beeridee.
Khullicottah.
Pratapagery.
Mohery.
Vizeyanagur.
Hautghur.
Bramnorchee.
Chegatee.
Mundasa.
Soorunghi.
Jaradah.
Jaluntra.
Boodara Singhy.
Dharacotah.
Badagodah.
Sareghur.
Turlah.
Purlah Khinedy.

Aumany Estates.

Goomsur.
Sooradah.
Askah.
Pornary.
Coorlaw.

In the District of Vizagapatam.

Ancient Zemindaries.

Vazeanagur.
Bobelly.

Hill Zemindaries.

Jayapoor.
Coorpam.
Sungumirulsah.
Chamadoo.
Panchepentah.
Andra.
Saroapully Bhomararum.
Saloor.
Mandoogole.
Belgam.
Maringhy.

Under Aumany.

Paleondah.
Golcondah.

III. And it is hereby enacted, that the administration of civil and criminal justice (including the superintendence of the police), and the col- Collector to administer the laws as agent to the governor.

lection and superintendence of the revenues of every description, within the tracts of country specified in the foregoing section, which are now included in the district of Ganjam, shall be vested in the collector of Ganjam, and within those which are now included in the district of Vizagapatam, in the collector of Vizagapatam, and shall be exercised by them respectively as, agents to the Governor of Fort St. George.

Governor in Council to prescribe rules for the agents, and define jurisdiction in civil and criminal suits.

IV. And it is hereby enacted, that it shall be competent to the Governor in Council of Fort St. George, by an order in Council, to prescribe such rules as he may deem proper for the guidance of such agents, and of all the officers subordinate to their control and authority, and to determine to what extent the decision of the agents in civil suits shall be final, and in what suits an appeal shall lie to the Sudder Adawlut, and to define the authority to be exercised by the agents in criminal trials, and what cases he shall submit to the decision of the Foujdarry Adawlut.

Jurisdiction of the Foujdarry Court in cases referred to them.

V. And it is hereby enacted, that upon the receipt of any criminal trials referred by either of the agents under the rules which may be hereafter prescribed by the Governor in Council, the Foujdarry Adawlut shall proceed to pass a final judgment, or such other order as may, after mature consideration, seem to the court requisite and proper, in the same manner as if the trial had been sent up in ordinary course from *a judge on circuit.*

Jurisdiction of the Sudder Court in appeals to them.

VI. And it is hereby enacted, that upon the receipt of any appeal from a decree of either of the agents, under the rules to be prescribed as aforesaid, the Court of Sudder Adawlut shall proceed to try and determine it in the same manner as appeals from the *Provincial Courts.*

Jurisdiction of the Governor's agents in administering Regulation II., 1819.

VII. And it is hereby enacted, that each of such agents as aforesaid shall have the power of making commitments by warrant under his hand, which is possessed by the Governor of Fort St. George in Council by virtue of Regulation II. of 1819, of the Madras code, provided that the third, fourth, fifth, sixth, and seventh sections of that regulation shall remain in force and be applicable to commitments under this Act; provided also, that in every case in which either of such agents shall make any such commitment, he shall transmit immediately a report to the Governor in Council of Fort St. George for his orders.

Governor in Council may alter the limits of jurisdiction of Governor's agent.

VIII. And it is hereby enacted, that it shall be competent to the Governor in Council of Fort St. George, by an order in Council, to make, from time to time, with the previous sanction of the Governor-General of India in Council, such alterations in the limits of the tracts within the aforesaid districts placed under the jurisdiction of the said agents respectively, as he may deem expedient.

A.D. 1840. ACT I.

AN ACT *for regulating the Procedure on Trials referred to the Court of Foujdarry Adawlut at Madras:* PASSED *by the Honourable the President of the Council of India in Council, on the* 27*th January*, 1840.

Foujdarry Adawlut may dispense with futwa, but not with Mahomedan law, in certain cases.

I. WHEREAS the dispensing with a futwa, in cases referred to the Court of Foujdarry Adawlut at Madras, will be attended with great convenience; and the futwa may be dispensed with in that court, without altering or impairing the authority of the Mahomedan law—It is therefore hereby enacted, that in trials referred to the said Court of Foujdarry Adawlut at Madras, that court shall not be required to take a futwa from their law officers. Provided always, that nothing in this Act contained, shall authorize the said court to dispense with the Mahomedan law in any case which, before the passing of this Act, would have been determinable according to that law by the said court.

A.D. 1840. ACT II.*

AN ACT *for regulating the Execution of Sentences of Imprisonment passed by Courts Martial in certain Cases:* PASSED *by the Honourable the President of the Council of India in Council, on the* 10*th February*, 1840.

Civil officers to give effect to sentences of imprisonment by courts martial under Act XXIII., 1839.

See Act III., 1844.

I. IT is hereby declared and enacted, that whenever under Act No. XXIII. of 1839, any sentence of a court martial shall adjudge imprisonment, or imprisonment with labour, for any offence, it shall be the duty of every judge, magistrate, sheriff, or other officer in charge of any gaol, to give effect to such sentence on the offender being delivered into his custody, and on being furnished with a copy of the sentence by the officer commanding the division, garrison, regiment, or detachment, as the case may be, to which the offender belongs.

* Camp-followers were declared amenable to this Act by Act XXVIII., 1841. See Articles of War, Act XIX., 1847.

A.D. 1840. ACT V.

AN ACT *concerning the Oaths and Declarations of Hindoos and Mahomedans:* PASSED *by the Right Honourable the Governor-General of India in Council, on the 24th of February,* 1840.

Affirmation substituted for judicial oath.

I. WHEREAS obstruction to justice and other inconveniences have arisen, in consequence of persons of the Hindoo or Mahomedan persuasion being compelled to swear by the water of the Ganges, or upon the Koran, or according to other forms which are repugnant to their consciences or feelings:

It is hereby enacted, that, except as hereinafter provided, instead of any oath or declaration now authorized or required by law, every individual of the classes aforesaid, within the territories of the East-India Company, shall make affirmation to the following effect:—

> "I solemnly affirm in the presence of Almighty God, that what I shall state shall be the truth, the whole truth, and nothing but the truth."

False affirmation punishable as perjury.

II. And it is hereby enacted, that if any person making such affirmation as aforesaid shall wilfully and falsely state any matter or thing, which, if the same had been sworn before the passing of this Act, would have amounted to perjury, every such offender shall be subject in all courts to the same punishment to which persons convicted of perjury were subject before the passing of this Act.

Subornation punishable.

III. And it is hereby enacted, that any person causing or procuring another to commit the offence defined in the second section of this Act shall be subject in all courts to the same punishment to which persons convicted of subornation of perjury were subject before the passing of this Act.

Not to extend to extra-judicial declarations, nor to Supreme Courts.

IV. And it is hereby provided, that this Act shall not extend to any declaration made under the authority of Act No. XXI. of 1837, nor to any declaration or affirmation made in any of Her Majesty's courts of justice.*

* This provision declared not to apply to the Courts of Justices of the Peace by Act II., 1847.

A.D. 1840. ACT VIII.

AN ACT *concerning the signing of Awards by the Members of Punchayets:* PASSED *by the Right Honourable the Governor-General of India in Council, on the* 13*th April*, 1840.

Signature of the majority of a punchayet legalizes the award.

IT is hereby enacted, that in cases where the minority of the members of a punchayet, held under the provisions of the Madras code, may decline to sign the award of the punchayet, the signature or mark of the majority shall be sufficient to give legal validity to the award. Provided always, that in such cases it shall be incumbent on such majority to admit the minority to record and attest by their mark or signature their reasons for declining to sign or mark the award passed by the majority.

A.D. 1840. ACT XVI.

AN ACT *concerning the Management of Convicts transported to Places within the Territories of the East-India Company:* PASSED *by the Right Honourable the Governor-General of India in Council, on the* 3*rd of August*, 1840.

See Act XVIII, 1845.

Preamble

I. WHEREAS doubts have arisen touching the legal mode of treating convicts transported to places within the territories of the East-India Company, and it is expedient to modify the rules which have heretofore been followed with regard to the management of such convicts:

The services of transported convicts belong to the person appointed by the Governor-General in Council.

It is hereby declared and enacted, that as soon as any offender shall be delivered to the person or persons to be appointed by the Governor-General in Council, on that behalf, at the place to which he is transported, the property in the service of such offender shall be vested in such person or persons during the term of transportation.

Power of Governor-General in Council to appoint persons to receive convicts.

II. And it is hereby declared and enacted, that it shall be lawful for the Governor-General in Council to appoint the Governor or other authority at any place within the territories of the East-India Company, or to appoint one or more superintendents at any such place, as the persons to whom convicts undergoing transportation shall be delivered, and in whom the property in the service of such convicts shall be vested as aforesaid.

Governor-General in Council may frame rules for the treatment of transported convicts.

III. And it is hereby declared and enacted, that it shall be lawful for the Governor-General in Council to issue orders, from time to time, to any such Governor, authority, or superintendent, and which orders are hereby required to be duly executed; and to frame rules touching the classification of convicts, their confinement, treatment, and discipline, and touching such

moderate correction as may be necessary in cases of misbehaviour and disorderly conduct, and of neglect or disobedience in the service of those persons in whom the property of such service may be vested as aforesaid.

This Act to apply to convicts now undergoing transportation

IV. And it is hereby declared and enacted, that all persons who have heretofore been transported to any place within the territories of the East-India Company, and whose terms of transportation are not yet expired, shall be subject to the provisions contained in this Act; and nothing heretofore done with respect to offenders who have been so transported, in conformity with the provisions of this Act, or by the orders or with the sanction of Government, shall be called in question in any court of law.

A.D. 1840. ACT XVII.

AN ACT *for amending Regulation V. of* 1831 *of the Madras Code, as far as the same regards Penalties for certain Breaches of the Salt Laws :* PASSED *by the Right Honourable the Governor-General of India in Council, on the* 10*th August,* 1840.

Preamble

WHEREAS great inconvenience has been experienced in consequence of sending persons accused of petty offences against the salt laws for trial in the criminal courts, who might be more conveniently tried by magistrates, as in the case of other offences subject to the same amount of punishment:

Penalties for breaches of the salt laws recoverable before magistrates.

It is hereby enacted, in modification of Regulation V. of 1831 of the Madras code, that all penalties prescribed by the Madras code for any breaches of the salt laws shall be recoverable before the magistrate of the district: Provided always, that it shall be lawful for any such magistrate before whom any person shall be charged with the commission of any offence against the salt laws, at his discretion, to proceed against such person in the same manner as against persons charged with offences the punishment of which rests with the Criminal Court. Provided also, that no magistrate shall, under the authority of this Act, punish any offender by a fine exceeding 50 rupees, or by imprisonment with or without labour for a longer period than thirty days.

Provisoes.

A.D. 1840. ACT XXII.

AN ACT *for the Punishment of Vagrants within the Towns of Calcutta and of Madras, and the Islands of Bombay and Colaba, extorting Alms by offensive and disgusting Exhibitions and Practices:* PASSED *by the Right Honourable the Governor-General of India in Council, on the 23rd November,* 1840.

Preamble

I. WHEREAS great inconvenience is experienced in the towns of Calcutta and of Madras, and in the islands of Bombay and Colaba, from mendicants who endeavour to extort alms by offensive and disgusting exhibitions and practices:

Punishment for extorting alms by offensive exhibitions and practices.

It is hereby enacted, that persons within the town of Calcutta or of Madras, or within the islands of Bombay and Colaba, who shall seek to extort alms by offensively exhibiting any bodily ailment or deformity, or by any offensive or indecent practices, or by inflicting, or threatening to inflict, bodily injury on themselves, shall be liable, on conviction before any justice of the peace, to imprisonment, with or without labour, for a term not exceeding one calendar month.

Punishment for a second offence

II. And it is hereby enacted, that all persons guilty a second time of any of the above offences shall be liable, on conviction before a justice of the peace, to imprisonment with hard labour for a term not exceeding twice the period assigned for the first offence, and for the same term upon any subsequent conviction.

Punishment for resistance to officers attempting to apprehend.

III. And it is hereby enacted, that persons guilty of any of the offences above mentioned, who shall violently resist any peace officer attempting to apprehend them, shall be liable, on conviction before a justice of the peace, to imprisonment, with or without hard labour, for a term not exceeding three calendar months.

Governor-General in Council may extend operation of this Act

IV. And it is hereby enacted, that it shall be lawful for the Governor-General in Council, from time to time, by notice in the Gazette, to extend the provisions of this Act to any towns or districts besides the places specified in this Act.

A.D. 1840. ACT XXIII.

AN ACT *for executing within the local Limits of the Jurisdiction of Her Majesty's Courts legal Process issued by Authorities in the Mofussil:* PASSED *by the Right Honourable the Governor-General of India in Council, on the 30th November,* 1840.

Preamble.

I. WHEREAS great inconvenience has been experienced in consequence of the difficulty of procuring the attendance, as witnesses before the Mofussil authorities, of persons resident within the local limits of Her Majesty's Supreme Courts, and, in consequence, of justice being often frustrated by reason of persons and property within such limits being exempted from process issued by such authorities, which has also occasioned inconvenience to the inhabitants within such limits, in suits in the Mofussil courts to which they are parties:

How process of the East-India Company's courts, may be executed within the limits of Supreme Courts.

It is hereby enacted, that any writ, warrant, or other process issued by any court, judge, or magistrate in the territories beyond the local limits of the Supreme Courts of Calcutta, Madras, and Bombay respectively, may be executed within those limits in manner following:—A copy of such writ, warrant, or other process, authenticated as such by the attestation of the court, judge, or magistrate signing or issuing the same, accompanied by a certified translation in the English language, shall be presented to any judge, of Her Majesty's courts, who may thereupon, under his hand and signature, indorse and direct the same to be executed within the local limits of any of Her Majesty's courts by the sheriff, or by any justice of the peace, according to the nature of such writ, warrant, or other process.

Sheriff how to proceed in the execution of such process.

II. And it is hereby provided, that upon the delivery of every such writ, warrant, or process, so indorsed as aforesaid, to any such sheriff as aforesaid, every such sheriff shall make a memorandum of the date of such delivery, and shall execute such writ, warrant, or process in like manner as if the same had originally issued from any of Her Majesty's courts, and had been delivered at the date as appearing by the memorandum; and such sheriff shall make no distinction as to priority or otherwise between the execution of any writ, warrant, or other process originally issued from any of Her Majesty's courts, and the execution of any writ, warrant, or other process under this Act. But every writ, warrant, and other process, whether original or indorsed as aforesaid, shall, amongst each other, be subject to the same rules touching the mode and order of execution as are now established in respect of writs, warrants, and other process originally issued from Her Majesty's courts of justice.

Liability of sheriff in such cases.

III. And it is hereby enacted, that every such sheriff shall be liable to be proceeded against in Her Majesty's courts of justice for all matters touching the execution of any writ, warrant, or other process executed under this Act, in like manner as if the same had originally issued from any of Her Majesty's courts of justice. And all persons and property seized or detained under any writ, warrant, or process executed by virtue of this

Act shall be dealt with in like manner as if such persons or property had been seized or detained under the like writ, warrant, or other process issued from any of Her Majesty's courts of justice.

Punishment for obstruction of service.

IV. And it is hereby enacted, that all persons disobeying or obstructing the execution of any writ, warrant, or other process indorsed under this Act, shall be punishable in Her Majesty's courts of justice, in like manner as if the same had issued from such courts: Provided always, that in the case of process for the attendance of witnesses, Her Majesty's courts shall be governed by the like rules, touching expenses and other matters, as are established in regard to subpœnas issued from such courts.

Parties arrested under such proceedings to be delivered as directed by the writ.

V. And it is hereby enacted, that in the case of persons seized or detained by virtue of any writ, warrant, or other process executed, under the authority of this Act, by any justice of the peace or by any sheriff, it shall be the duty of every such sheriff or justice of the peace, if so required by the indorsement of the judge, to deliver the party in custody to such authority or persons as shall be particularly specified in such indorsement, and who shall have been charged with the execution of the writ, warrant, or other process by the authority originally issuing the same, and for that purpose to cause the party in custody to be conveyed to any place within the Company's territories beyond the local limits of the jurisdiction of Her Majesty's courts.

Writ may be returned for amendment to the authority issuing it.

VI. And it is hereby provided, that in the case of any writ, warrant, or other process required to be indorsed under the authority of this Act, it shall be lawful for the judge who shall be required to indorse the same, to remit the same for amendment to the authority issuing the same, if the same shall appear to be defective in any matter of form.

Judge indorsing such writs may direct bail to be taken.

VII. And it is hereby provided, that in the case of any writ, warrant, or other process required to be indorsed under the authority of this Act, for the seizure or detention of any person, it shall be lawful for the judge who shall be required to indorse the same to direct, by indorsement, that bail (the amount and number of sureties to be specified in such indorsement) may be taken, and for this purpose to call for such documents and to make such inquiry as he shall think proper.

Persons sentenced to imprisonment by Mofussil authorities may be confined in gaols within the jurisdiction of the Supreme Courts.

VIII. And whereas it is expedient that offenders sentenced by the Mofussil authorities to imprisonment, with or without hard labour, should be subjected to the most improved rules of prison discipline, which cannot in all cases be conveniently done except in the prisons locally situate within the jurisdiction of Her Majesty's Supreme Courts, it is hereby enacted, that all civil and criminal gaols and houses of correction within the jurisdiction of any of Her Majesty's Supreme Courts shall, according to the nature of the case, be liable to be used by the sheriff for the purposes of this Act; and the parties imprisoned therein under the authority of this Act shall be liable to the prison discipline thereof; and all sentences of imprisonment passed by any judge, court, or magistrate in the territories of the East-India Company beyond the local limits of Her Majesty's Supreme Courts, may be executed in whole or in part within any of the

gaols, or houses of correction aforesaid, provided that a copy of the warrant of commitment or other process authorizing the imprisonment be so indorsed as aforesaid, and such indorsement contain the necessary directions.

A.D. 1841. ACT V.

AN ACT *for the greater uniformity of the Process upon Trials for State Offences, and the Amendment of such Process in certain Cases:* PASSED *by the Right Honourable the Governor-General of India in Council, on the* 31*st of May*, 1841.

Crimes against the State may be tried by the ordinary tribunals.

I. WHEREAS it is expedient that the rules of process for the trials of state offences should be modified with a view to uniformity at the different Presidencies; and whereas some of the rules heretofore in force at particular Presidencies require amendment:

It is hereby enacted, in modification of all Regulations and parts of Regulations affecting process upon trials for state offences, that it shall be competent for the ordinary tribunals to try charges of treason, rebellion, or other crime against the State.

Local Government may issue commission for trial of state offences.

II. And it is hereby enacted, that it shall be competent for the Government of any Presidency to issue a commission for the trial of any offences of treason, rebellion, or crime against the State, by one or more judges, together with such law officers as shall be required, or without any such officer, according as it may be deemed expedient.

Powers and duties of such commission

III. And it is hereby enacted, that the courts convened under such commissions are to try the prisoners brought before them in the same manner as in trials before the ordinary courts; and shall exercise all powers and authorities vested in such courts, except that their sentence, whether of acquittal or punishment, shall in every instance be reported with their proceedings to the highest court of the East-India Company for criminal matters of the Presidency, previous to carrying the same into execution; and they are to be guided as to the place where they are to assemble, the persons to be tried by them, and all other particulars not provided by any Regulation of the respective Presidencies, or by any Act of the Governor-General of India in Council, by the special orders which they may receive from the Executive Government, or from the highest court of the East-India Company for criminal matters in the Presidency.

Commission how to proceed if any member die or be absent.

IV. And it is hereby enacted, that in case of the death, or of the absence, from indisposition or other cause, of any of the judges, or law officers of the courts which may be appointed to try offenders under this Regulation, the remaining judge or judges, or law officer or officers, shall be competent to form a court, and proceed with the trial or trials, until provision can be made by the Government of the Presidency for supplying

the place of such judge or judges, or law officer or officers, if any such provision shall be deemed necessary; or if no such provision be made, the powers and proceedings of the said courts shall not be affected by the death or absence of such judge or judges, or law officer or officers.

Sudder courts how to proceed in cases referred to them.

V. And it is hereby enacted, that the highest courts of the East-India Company for criminal matters of the respective Presidencies, on the receipt of any trials referred to them under this Act, are to proceed thereupon according to the rules in force with respect to other trials referred to them; except that they are in every instance to report their sentences to the executive Government of the Presidency for the time being; and are to wait the orders of Government for the period of three calendar months before they direct their sentence to be carried into execution.

Magistrates to notify charges of state offences to the local Government.

VI. And it is hereby enacted, that the magistrates of the several zillahs and cities, where any person or persons shall be charged with the crimes mentioned in this Act, shall give immediate notice thereof to the Government of the Presidency to which their several districts or cities belong, and shall pay immediate and strict attention to all orders which may be transmitted to them by their respective Governments for the apprehension of persons charged as aforesaid, or for making any inquiry respecting such persons, or for committing them to take their trials before the ordinary courts, or before the special courts described in this Act.

Not to affect the jurisdiction of the Supreme Courts.

VII. And it is hereby enacted, that this Act shall not be construed to alter or affect the jurisdiction of any of Her Majesty's Supreme Courts of Justice.

A.D. 1841. ACT VII.

AN ACT *for a more uniform and an improved Process for taking the Examination of absent Witnesses:* PASSED *by the Right Honourable the Governor-General of India in Council, on the* 14*th June*, 1841.

Rescission of former provisions for examining absent witnesses.

I. IT is hereby enacted, that all Regulations and parts of Regulations for taking the examination of absent witnesses in any Presidency are hereby repealed.

All courts may order examination of witnesses on interrogatories,

II. And it is hereby enacted, that it shall be lawful for any court within the territories under the Government of the East-India Company, and the several judges thereof, in every civil proceeding depending in such court, upon the application of any of the parties to such proceeding, to order the examination upon interrogatories or otherwise, before any officer of such court, or other person or persons named in such order, of any witnesses within the jurisdiction of the court where the proceeding shall be depending—or to order a commission to issue to any subordinate court for

and may issue commissions to other courts.

the examination of such witnesses upon interrogatories or otherwise—or to order a commission to issue to any other court for the examination of witnesses at any place or places out of such jurisdiction upon interrogatories or otherwise—and by the same or any subsequent order or orders to give all such directions for taking such examinations, as well within the jurisdiction of the court wherein the proceeding shall be depending as without, as may appear reasonable and just. Provided always, that any court to whom any such commission shall be directed shall take the examination in open court in all cases where witnesses are able to attend in court and are not exempted from attendance by law, absolutely, or at the discretion of the court. Provided also, that such commissions as aforesaid for the examination of witnesses out of such jurisdiction may be directed otherwise than to some court, under special circumstances which may appear to the court issuing the commission to render such special direction expedient. Provided also, that all commissions issued and orders made by any court of the East-India Company, and which are required to be executed within the local limits of any of Her Majesty's Supreme Courts, shall be directed in manner hereinafter mentioned.

Provisoes.

Witnesses within a court's jurisdiction may be ordered to attend and produce documents.

III. And it is hereby enacted, that when any order shall be made for the examination of witnesses, within the jurisdiction of the court wherein any such proceeding as aforesaid shall be depending, by the authority of this Act, it shall be lawful for the court, or any judge thereof, in and by the first order to be made in the matter, or any subsequent order, to command the attendance of any person to be named in such order, and to direct the attendance of any such person to be at his own place of residence or elsewhere, if necessary or convenient so to do, and to produce all necessary documents and papers. And the wilful disobedience to any such order shall be deemed a contempt of court, and punishable as in other cases of refusing or neglecting to give testimony. Provided always, that every person whose attendance shall be required under this Act shall be entitled to the like payment for expenses and loss of time as upon attendance in court in cases where such expenses are now allowed.

Power of commissioners to administer affirmations.

IV. And it is hereby enacted, that it shall be lawful for every court or person authorized to take the examination of witnesses by any order or commission issued in pursuance of this Act, and they are hereby authorized and required, to take all such examinations upon *oath or* affirmation where an affirmation is admissible or required upon a trial; and if upon such *oath or* affirmation any person making the same shall wilfully and corruptly give any false evidence, every person so offending shall be deemed and taken to be guilty of perjury, and every person causing or procuring another person to commit the offence of perjury hereby defined shall be guilty of subornation of perjury.

Inquiry to be made before issuing commission.

V. And it is hereby enacted, that before any order or commission for the examination of any witness under this Act shall be issued, the court or judge issuing the same shall be satisfied that there is good reason for believing that the witness will be unable to attend at the usual time for examination, by reason of absence from the jurisdiction, sickness, or other cause allowed by law. And before granting any such commission, the

court granting the same shall make particular inquiry as to the present residence of the witness whose deposition is to be taken under such commission, and as to the court of the same degree as the court granting such commission, or of inferior degree to such court, which may be nearest to the place of residence of the witness; and the commission shall ordinarily be directed to such court of equal or inferior degree as may most conveniently execute the same. Provided, however, that if there be doubt as to which is the most convenient court of equal or inferior jurisdiction, such commission may be directed to the judge having jurisdiction within the district within which the commission is to be executed. And the judge shall at his discretion execute the commission in his own court, or direct it to any subordinate court within his district, which shall have the same effect for all the purposes of this Act as if the commission had in the first instance been directed to such subordinate court. And no deposition taken under this Act, except as hereinafter mentioned, shall be read in evidence without the consent of the party against whom the same may be offered, unless it be proved that the deponent is beyond the jurisdiction of the court, or dead, or unable from sickness or infirmity to attend to be personally examined, or distant without collusion more than fifty coss from the place where the court is held, or exempted by law, absolutely or at the discretion of the court, from personal appearance in court, or unless the court shall at its discretion dispense with the proof of any of the above circumstances, or shall authorize the deposition of any witness being read in evidence notwithstanding proof that the causes for taking such deposition have ceased at the time of reading the same; and after the witness shall be produced, and shall have delivered his testimony, it shall be lawful for the court at its discretion to authorize the reading of the deposition. And all depositions taken under this Act, being duly certified, may be read, at the discretion of the court, without proof of the signature to such certificate.

Judge to whom a commission may be directed, may authorize a subordinate authority to execute it.

VI. And it is hereby enacted, that any court other than one of Her Majesty's courts, or any judge thereof, may issue such commissions as aforesaid, and such orders as are indicated in the second and third sections of this Act, to be executed within the local limits of the jurisdiction of any of Her Majesty's courts; and all such commissions and orders, except when directed otherwise than to a court, shall be directed to a Court of Requests having jurisdiction within such limits, or any part thereof.

Commissions may be directed to Courts of Requests.

VII. And it is hereby enacted, that such commissions and orders as aforesaid may be issued for execution under this Act within the territories of Princes and States in alliance with the East-India Company; and all persons within such last-mentioned territories being in the service of the East-India Company are hereby required to pay obedience thereto, and for disobedience thereof shall, on being found within the jurisdiction of the court or judge issuing any such commission or order, be punishable in like manner as if such offence had been committed within such jurisdiction; and for giving false testimony under the same shall be punishable by any court of justice within the territories of the East-India Company.

Commissions may be executed in territories of states in alliance.

VIII. And it is hereby enacted, that whenever the evidence of any

Any court executing

commission may punish for contempt.

absent witness shall be required out of the jurisdiction of the court in which the proceedings for which the evidence is wanted may be pending, and the commission shall be directed to any court, such court may punish the wilful disobedience of any such order as aforesaid as a contempt, notwithstanding it shall not itself have made such order, with the same amount of punishment as in other cases of refusing or neglecting to give testimony.

A.D. 1841. ACT X.

AN ACT *for prescribing the Rules to be observed, in order that Ships or Vessels belonging to Ports within the Territories under the Government of the East-India Company, or belonging to Native Princes or States, or their Subjects, may become entitled to the Privileges of British Ships under a Proclamation of the Governor-General of India in Council, made in pursuance of the Statute 3rd and 4th Victoria, Chapter LVI.:* PASSED *by the Right Honourable the Governor-General of India in Council, on the 5th of July,* 1841.

Preamble.

I. WHEREAS by a statute passed in the third and fourth years of Her Majesty Queen Victoria, entitled "An Act to regulate the Trade of Ships built and trading within the Limits of the East-India Company's Charter," it is enacted, "that it shall be lawful for the Governor-General of India in Council, by proclamation, to declare that all ships or vessels built or to be built within the limits of the Charter of the East-India Company, being owned by Her Majesty's subjects for whom the said Governor-General in Council has power to legislate, and belonging, under the Regulations hereinafter provided for, to any ports in the territories under the Government of the said Company, shall be deemed to be British ships for all the purposes of trade within the said limits, including the Cape of Good Hope, and the territories and dependencies thereof: Provided that, upon such declaration being made, the said Governor-General in Council shall, and the said Governor-General in Council is hereby accordingly empowered to make Regulations, to be enforced by suitable penalties, concerning the registering, licensing, and ascertaining the admeasurement of the tonnage and burden, and generally for the trading within the limits aforesaid of such ships or vessels." And whereas it is further enacted, in the same statute, as follows; that is to say, "And whereas it may be expedient to admit to similar privileges and advantages any ships or vessels belonging to Native Princes or States in subordinate alliance with, or having subsidiary treaties with the East-India Company, or owned by subjects of any such Princes or States; be it therefore enacted, that the Governor-General of India in Council may, by such

Regulations as aforesaid, such Regulations being subject as aforesaid, admit to the privileges and advantages of British ships, for the purposes of trade within the limits of the Charter of the said Company, including the Cape of Good Hope and the territories and dependencies thereof, or to any of such privileges and advantages, any ships or vessels belonging to such Princes or States, or any of them, or owned by subjects of any such Princes or States; but any such Regulations shall provide for the granting to such ships or vessels fit and convenient licenses or passes, and generally for the trading within the limits aforesaid of such ships or vessels." And whereas, in pursuance of such enactments, it is expedient to frame such Regulations as are mentioned therein, the compliance with which shall be required, in order that ships or vessels may be deemed British ships, or be admitted to the privileges and advantages of British ships under such proclamation as aforesaid:

Ships to be registered. Certificate of Registry.

It is hereby enacted, that no ship or vessel shall be deemed a British ship under such proclamation as aforesaid (except as regards ships or vessels registered before the passing of this Act, or having a pass at the time of passing thereof), unless the person or persons claiming property therein shall have caused the same to have been registered, at some one of the ports hereinafter mentioned, within the territories of the East-India Company, and shall have obtained a certificate of such registry from the person or persons authorized to make such registry and grant such certificate as hereinafter directed; the form of which certificate shall be as follows:—

"This is to certify, that in pursuance of the Act No. X. of 1841, of the Governor-General of India in Council (here insert the names and occupation and residence of subscribing owners), having made and subscribed the declaration required by the said Act, and having declared that (he or they), together with (names, occupations, and residence of non-subscribing owners), (is or are) sole owner or owners, in the proportions specified on the back hereof, of the ship or vessel called the (ship's name), of (place at which the vessel shall be registered), which is of the burthen of (number of tons), and whereof (master's name) is master, and that the said ship or vessel was (when and where built), and (name and employment of surveying officer), having certified to us that the said ship or vessel has (number) decks and (number) masts, that her (here insert the measurement as ascertained by the rules hereinafter mentioned), that she is (how rigged) rigged with a (standing or running) bowsprit, is (description of stern) sterned, (carvel or clincher) built, has (whether any or no) gallery, and (kind of head, if any) head; and the said subscribing owners having consented and agreed to the above description, the said ship or vessel, called the (name), has been duly registered at the port of (name of port).

"Certified under our hands at the custom-house, in the said port of (name of port), this (date) day of (name of month) in the year (words at length).

"(Signed) ——————, Collector or Registrar of Shipping."

And on the back of such certificate of registry there shall be an account of the parts or shares held by each of the owners mentioned and described in such certificate, in the form and manner following:—

Names of several Owners within mentioned.	Number of Shares held by each Owner.
Name	Thirty-two.
Name	Sixteen.
Name	Eight.

" &c. &c.

" (Signed) ———, Collector."

Ports of Registry.

II. And it is hereby enacted, that the ports at which registration shall be made shall be the ports of Calcutta, Madras, Bombay, Singapore, and such other places subordinate to the local Governments of India, as such Governments respectively may, from time to time, declare to be registering ports under this Act. Provided, that ships or vessels built at any place other than any of such ports shall be allowed to make their first voyage to any of such ports, being the ports at which it is intended they shall be registered, under a certificate to be granted by the principal British officer, at the place where the ship is built, or if there be no British officer in authority there, then by three merchants of such place, which certificate shall contain all the particulars with regard to the ownership and description of the ships or vessels contained in a certificate of registry, and shall specify the ports at which it is intended that they shall respectively be registered, and which certificate shall have all the effect of a certificate of registry under this Act, during the first voyage from the place of building to the ports at which the ships or vessels respectively shall be afterwards registered. Provided that such ships or vessels, so proceeding on their first voyage as aforesaid, shall be deemed British ships only whilst duly prosecuting such first voyage for the purpose of registry, and if they be not registered within a reasonable time after their arrival at the port of registry, the owner or owners, or master or other person, having or taking the command or charge of such ship or vessel, shall be liable, on information in any court of Her Majesty or the East-India Company, by the Advocates-General of the respective Presidencies, to a penalty not exceeding 5,000 rupees.

Registrars.

III. And it is hereby enacted, that the persons authorized to make such registry, and to grant such certificates as aforesaid, shall be the persons now authorized to make registry of ships or vessels under the Statute 3 and 4 Wm. 4, c. 55, and such other or different persons as the local Governments may, from time to time, appoint for the ports under their respective Presidencies.

Book of registry.

IV. And it is hereby enacted, that at every port where registry shall be made in pursuance of this Act, a book shall be kept by the registering officer, in which all the particulars contained in the form of the certificate of the registry, hereinbefore directed to be used, shall be duly entered; and every registry shall be numbered in progression, beginning such progressive numeration at the commencement of each and every year. And such registering officer shall forthwith, or within one month at the

furthest, send to the Government of the Presidency to which he is subordinate a true and exact copy, together with the number of every certificate which shall be by him so granted.

Declaration.

V. And it is hereby enacted, that no registry shall henceforth be made or certificate be granted, until the following declaration be made or subscribed before the registering officer, by the owner, or major part of the owners of the ship or vessel required to be registered.

I, *A. B.*, of (place of residence and occupation) do truly declare that the ship or vessel (name) of (port or place) whereof (master's name) is at present master, being (kind of build, burthen, et cetera, as described in the certificate of the surveying officer) was (when and where) built, and that I, the said (*A. B.*) and the other owners (names and occupations if any, and where they respectively reside) am (or are) sole owner (or owners) of the said vessel, and that no other person or persons whatever hath or have any right, title, interest, share, or property therein or thereto; and that I, the said (*A. B.*), and the said other owners (if any) am (or are) truly and bonâ fide a subject (or subjects) of Her Majesty, for whom the Governor-General of India in Council has power to legislate, and that no person not being subject as aforesaid, directly or indirectly, hath any share or part interest in the said ship or vessel. Provided, that if the registering officer shall see occasion to doubt the truth of any of the facts contained in the above declaration, he shall not deem such declaration to be conclusive, but may refuse the registry or certificate; and his discretion exercised in this behalf shall be subject only to an appeal to the local Government to which he is subordinate.

VI. And it is hereby enacted, that in case the required number of joint owners of any ship or vessel shall not personally attend to make and subscribe the declaration hereinbefore directed to be made and subscribed, then and in such case such owner or owners as shall personally attend and make and subscribe the declarations aforesaid, shall further declare that the part owner or part owners of such ship or vessel then absent, is or are not resident within twenty miles of such port or place, and hath or have not, to the best of his or their knowledge or belief, wilfully absented himself or themselves in order to avoid the making the declaration hereinbefore directed to be made and subscribed, or is or are prevented by illness from attending to make and subscribe the said declaration.

Measurement to be made.

VII. And in order to enable the registering officer to grant a certificate truly and accurately describing every ship or vessel to be registered in pursuance of this Act, and also to enable all other officers of customs, on due examination, to discover whether any such ship or vessel is the same with that for which a certificate is alleged to have been granted, it is hereby enacted, that previous to the registering or granting of any certificate of registry as aforesaid, some one or more person or persons appointed by the local Governments respectively, taking to his or their assistance, if he or they shall judge it necessary, one or more person or persons skilled in the building and admeasurement of ships, shall go on board of every such ship or vessel that is to be registered, and shall strictly and accurately examine and admeasure every such ship or vessel, as to all

and every particular contained in the form of the certificate hereinbefore directed, in the presence of the master, or of any other person who shall be appointed for that purpose on the part of the owner or owners, or in his or their absence, by the said master, and shall deliver a true and just account in writing of all such particulars of the build, description, and admeasurement of every such ship or vessel as are specified in the form of the certificate above recited, to the officer authorized to make such registry and grant such certificate of registry as aforesaid; and the said master or other person attending on the part of the owner or owners is hereby required to sign his name also to the certificate of such surveying or examining officer, in testimony of the truth thereof, provided such master or other person shall consent and agree to the several particulars set forth and described therein.

Rules of measurement.

VIII. And it is hereby enacted, that from and after the commencement of this Act, the tonnage of every ship or vessel required by law to be registered, shall, previous to her being registered, be measured and ascertained while her hold is clear, and according to the following rule; (that is to say) divide the length of the upper deck between the afterpart of the stem and the forepart of the sternpost into six equal parts. Depths: at the foremost, the middle, and the aftermost of those points of division, measure, in feet and decimal parts of a foot, the depths from the underside of the upper deck to the ceiling at the limber strake. In the case of a break in the upper deck, the depths are to be measured from a line stretched in a continuation of the deck. Breadths: divide each of those three depths into five equal parts, and measure the inside breadths at the following points; videlicet, at one-fifth and at four-fifths from the upper deck of the foremost and aftermost depths, and at two-fifths and four-fifths from the upper deck of the midship depth. Length: at half the midship depth measure the length of the vessel from the afterpart of the stem to the forepart of the sternpost; then to twice the midship depth add the foremost and the aftermost depths for the sum of the depths; add together the upper and lower breadths at the foremost division, three times the upper breadth and the lower breadth at the midship division, and the upper and twice the lower breadth at the after division, for the sum of the breadths; then multiply the sum of the depths by the sum of the breadths, and this product by the length, and divide the final product by three thousand five hundred, which will give the number of tons for register. If the vessel have a poop or half-deck, or a breadth in the upper deck, measure the inside mean length, breadth, and height of such part thereof as may be included within the bulk-head; multiply these three measurements together and dividing the product by 92.4, the quotient will be the number of tons to be added to the result as above found. In order to ascertain the tonnage of open vessels, the depths are to be measured from the upper edge of the upper strake.

Measurement of steam-vessels.

IX. And it is hereby provided, that in each of the several rules hereinbefore prescribed, when applied for the purpose of ascertaining the tonnage of any ship or vessel propelled by steam, the tonnage due to the cubical contents of the engine-room shall be deducted from the total tonnage of the vessel as determined by either of the rules aforesaid, and the remainder

shall be deemed the true register tonnage of the said ship or vessel. The tonnage due to the cubical contents of the engine-room shall be determined in the following manner; that is to say, measure the inside length of the engine-room, in feet and decimal parts of a foot, from the foremost to the aftermost bulk-head, then multiply the said length by the depth of the ship or vessel at the midship division as aforesaid, and the product by the inside breadth at the same division at two-fifths of the depth from the deck taken as aforesaid, and divide the last product by 92.4, and the quotient shall be deemed the tonnage due to the cubical contents of the engine-room.

Alterations in steam-vessels requiring new registry.

X. And it is hereby provided, that the tonnage due to the cubical contents of the engine-room, and also the length of the engine-room, shall be set forth in the certificate of registry as part of the description of the ship or vessel, and that any alteration of such tonnage due to the cubical contents of the engine-room, or of such length of the engine-room, after registry, shall be deemed to be an alteration requiring registry de novo within the meaning of the said Act, for the registering of ships or vessels.

Measurement of laden vessels.

XI. And it is hereby enacted, that for the purpose of ascertaining the tonnage of all such ships, whether belonging to the United Kingdom or otherwise, as there shall be occasion to measure while their cargoes are on board, the following rule shall be observed, and is hereby established; (that is to say), measure, first, the length of the upper deck between the afterpart of the stem and the forepart of the stern-post; secondly, the inside breadth on the underside of the upper deck at the middle point of the length; and, thirdly, the depth from the underside of the upper deck down the pump-well to the skin: multiply these three dimensions together, and divide the product by one hundred and thirty, and the quotient will be the amount of the register tonnage of such ships.

Registered tonnage to be marked.

XII. And it is hereby enacted, that the true amount of the register tonnage of every merchant ship or vessel belonging to the United Kingdom, to be ascertained according to the rule by this Act established in respect of such ships, shall be deeply carved, or cut in figures of at least three inches in length, on the main beam of every such ship or vessel, prior to her being registered.

Country craft not exceeding 200 tons.

XIII. And it is hereby provided, that country craft employed in coasting voyages, not exceeding the burthen of 200 tons, may be registered, and the tonnage marked according to rules to be prescribed from time to time by the respective local Governments.

Registered tonnage to be repeated in every subsequent register.

XIV. And it is hereby enacted, that whenever the tonnage of any ship or vessel shall have been ascertained according to the rules herein prescribed, such account of tonnage shall ever after be deemed the tonnage of such ship or vessel, and shall be repeated in every subsequent registry of such ship or vessel, unless it shall happen that any alteration has been made in the form of burthen of such ship or vessel, or it shall be discovered that the tonnage of such ship or vessel had been erroneously taken and computed.

Fraudulent use of certificate

XV. And it is hereby enacted, that if such certificate as aforesaid shall be sold, lent, or otherwise disposed of to any person or persons whatever than those for whose use it is granted, or shall be made use of for the service of any other ship or vessel than the ship or vessel for which it is granted, such certificate shall thenceforth be utterly void, and the master or any owner of the ship or vessel who shall be proved to have sold, lent, or disposed of such certificate, or made use of the same as aforesaid, or shall have concurred in or been privy to the committing any such offence, shall be liable, upon conviction by information as aforesaid, to a penalty not exceeding 10,000 rupees. And in case such ship or vessel shall be lost or taken by the enemy, burnt, or broken up, or otherwise prevented from returning to the port at which she is registered, or shall on any account have lost and forfeited the privileges of a British ship, or shall have been seized and legally condemned for illicit trading, or shall have been taken in execution for debt and sold by due process of law, or shall have been sold to the Crown or the East-India Company, or shall under any circumstances have been registered de novo, the certificate, if preserved, shall be delivered up, within one month after the arrival of the master in any port or place in the territories of the East-India Company, to the registering officer at such port, in default whereof the master or any of the owners shall be liable, on conviction by information as aforesaid, in a penalty not exceeding 5,000 rupees. And if any person, not being such subject as aforesaid, shall purchase or otherwise become entitled to the whole, or to any part or share of or any interest in such ship or vessel, and the same shall be within the limits of any port of the territories of the East-India Company, then and in such case the certificate of registry shall, within seven days after such purchase or transfer of property in such ship or vessel, be delivered up to the registering officer at such port, and if such ship or vessel shall be in any place not within the territories of the East-India Company when such purchase or transfer of property shall take place, then the certificate shall be delivered up, within fourteen days after the arrival of such ship or vessel, or of the master thereof, in any port of the territories of the East-India Company, to the registering officer at such port, in default whereof the master or any of the owners shall be liable, on conviction before any justice of the peace, in a penalty not exceeding 5,000 rupees, recoverable in manner provided by Act No. II. of 1839.

Change of master

XVI. And it is hereby enacted, that when and so often as the master of any ship or vessel registered in manner hereinbefore directed shall be changed, the master or owner of such ship or vessel shall deliver to the person or persons hereinbefore authorized to make such registry, and grant such certificates of registry at the port where such change shall take place, if it be a port within the territories of the East-India Company, the certificate of registry belonging to such ship or vessel, who shall thereupon indorse and subscribe a memorandum of such change, and shall forthwith give notice of the same to the proper officer of the port or place where such ship or vessel was last registered pursuant to this Act, who shall likewise make a memorandum of the same in the book of registers, which is hereby directed and required to be kept, and shall forthwith give notice thereof in like manner as of the original entry. But if the change do not take place in any port within the territories of the East-India Com-

pany, then such delivery, memorandum, and indorsement shall be made, and notice given at the first port within the territories of the East India Company at which the new master shall arrive after such change. In default of which delivery of the certificates, such new master or any of the owners shall be liable, on conviction before a justice of the peace, to a penalty not exceeding 5,000 rupees, recoverable as aforesaid.

Name of ship.

XVII. And it is hereby enacted, that it shall not be lawful for any owner or owners of any ship or vessel, to give any name to such ship or vessel, other than that by which she was first registered in pursuance of this Act, and that the owner or owners of all and every ship or vessel which shall be so registered shall, before such ship or vessel, after such registry, shall begin to take in any cargo, paint or cause to be painted, in white or yellow letters of a length of not less than four inches, upon a black ground, on some conspicuous part of the stern, the name by which such ship or vessel shall have been registered pursuant to this Act, and the port to which she belongs, in a distinct and legible manner, and shall so keep and preserve the same; and that if such owner or owners, or master or other person having or taking the charge or command of such ship or vessel, shall permit such ship or vessel to begin to take in cargo before the name of such ship or vessel has been so painted as aforesaid, or shall wilfully alter, erase, obliterate, or in anywise hide or conceal, or cause or procure or permit the same to be done, or shall in any written or printed paper, or other document, describe such ship or vessel by any name other than that by which she was first registered pursuant to this Act, or shall verbally describe, or cause, or procure, or permit such ship or vessel to be described by any other name to any officer or officers of revenue in the due execution of his or their duty, then, and in every such case, the certificate of registry shall thenceforth become utterly void, and such owner or owners, or master or other person, having or taking the charge or command of such ship or vessel, shall be liable, on information as aforesaid, to a penalty not exceeding 10,000 rupees.

Certificate of building.

XVIII. And it is hereby enacted, that all and every person and persons who shall apply for a certificate of the registry of any ship or vessel shall, and they are hereby required to produce to the person or persons authorized to grant such certificate, a true and full particular under the hand of the builder of such ship or vessel, or in case the want of such certificate can be satisfactorily accounted for, then to produce other sufficient evidence of the proper denomination, and of the time when and the place where such ship or vessel was built, and also an exact account of the tonnage of such ship or vessel, and shall also make and subscribe a declaration, before the person or persons hereinbefore authorized to grant such certificate, that the ship or vessel for which such certificate is required is the same with that which is so described by the builder as aforesaid.

Certificate lost or mislaid.

XIX. And it is hereby enacted, that if the certificate of registry of any ship or vessel shall be lost or mislaid, so that the same cannot be found or obtained for the use of such ship or vessel when needful, and proof thereof shall be made to the satisfaction of the registering officer of the port at which the ship is registered, such officer shall and may,

where the certificate shall have been lost or mislaid, permit such ship or vessel to be registered de novo, and a certificate thereof to be granted. Provided always, that if such ship or vessel be absent and far distant from the port to which she belongs, or by reason of the absence of the owner or owners, or of any other impediment, registry of the same cannot then be made in sufficient time, such registering officer shall and may grant a license for the present use of such ship or vessel, which license shall, for the time and to the extent specified therein, and no longer, be of the same force and virtue as a certificate of registry granted under this Act. Provided always, that if the certificate of registry shall at any time afterwards be found, the same shall be forthwith delivered to the proper officers of customs to be cancelled, and that no illegal use be made of the same; in default whereof, the original certificate and the renewed certificate and license shall thenceforth become utterly void, and any person wilfully detaining the certificate so required to be cancelled, or making any illegal use thereof, shall be liable, on conviction before any justice, in a penalty not exceeding 5,000 rupees, recoverable as aforesaid.

Detention of certificate.

XX. And whereas it is not proper that any person under any pretence whatever should detain the certificate of registry of any ship or vessel, or hold the same for any purpose other than the lawful use and navigation of the ship or vessel for which it was granted, it is therefore hereby enacted, that in case any person who shall have received or obtained by any means or for any purpose whatever the certificate of the registry of any such ship or vessel (whether such person shall claim to be the master, or to be the owner, or one of the owners of such ship or vessel, or not), shall wilfully detain and refuse to deliver up the same to the proper officers of customs, for the purposes of such ship or vessel, as occasion shall require, or to the person or persons having the actual command, possession, and management of such ship or vessel as the ostensible and reputed master, or as the ostensible and reputed owner or owners thereof, it may and shall be lawful to and for any such last-mentioned person to make complaint on oath of such detainer and refusal to any justice of the peace residing near to the place where such detainer and refusal shall be, and on such complaint the said justice shall and is hereby required, by warrant under his hand and seal, to cause the person so complained against to be brought before him to be examined touching such detainer and refusal; and if it shall appear to the said justice, on examination of such person or otherwise, the said certificate of registry is not lost or mislaid, but is wilfully detained by the said person, such person shall be subject, on conviction before such justice, to a penalty not exceeding 1,000 rupees, recoverable as aforesaid; and the said justice shall, and he is hereby required to certify the aforesaid detainer, refusal, and conviction to the person or persons who granted such certificate of registry for such ship or vessel, who shall, on the terms and conditions of law being complied with, make registry of such ship or vessel de novo, and grant a certificate thereof conformably to law, notifying on the back of such certificate the ground upon which the ship or vessel was so registered de novo; and if the person who shall have detained and refused to deliver up such certificate of registry as aforesaid, or shall be verily believed to have detained the same, shall have absconded so that the said warrant of the justice cannot be executed upon

him, and proof thereof shall be made to the satisfaction of the registering officer of the port at which the ship or vessel was registered, it shall be lawful for the said officer to permit such ship or vessel to be registerd de novo, or otherwise, in his discretion, to grant a license for the present use of such ship or vessel, in like manner as is hereinbefore provided in the case wherein the certificate of registry is lost or mislaid.

Registration de novo.

XXI. And it is hereby enacted, that if any ship or vessel, after she shall have been registered pursuant to the directions of this Act, shall in any manner whatever be altered so as not to correspond with all the particulars contained in the certificate of her registry, or if any alteration shall take place in the ownership of any ship or vessel, or of any share or shares thereof, in such cases such ship or vessel shall be registered de novo, in manner hereinbefore required, as soon as she returns to the port to which she belongs, or to any other port within the territories of the East-India Company; on failure whereof such ship or vessel shall be deemed to be a ship or vessel not duly registered; and any person making use of a certificate for the purposes of any ship or vessel which has been granted in respect of the same, after the same ought to have been registered de novo, he shall be liable, on conviction before any justice, to a penalty not exceeding 5,000 rupees, recoverable as aforesaid.

Testimony of registering officers.

XXII. And whereas great inconvenience may arise from the registering officers being served with subpœnas requiring them to bring with them and produce, on trials in courts of law, relative to the ownership of vessels, or otherwise, the declarations required to be taken by the owners thereof prior to the registering thereof, and the books of registry, or copies or extracts therefrom: And whereas it would tend much to the dispatch of business if the attendance of such registering officers with the same upon such trials were dispensed with, it is therefore hereby enacted, that the registering officer at any port or place, and the person or persons acting for them respectively, shall, upon every reasonable request by any person or persons whomsoever, produce and exhibit for his, her, or their inspection and examination any declaration made by any such owner or owners, and also any register or entry in any book or books of registry required, and shall, upon every reasonable request by any person or persons whomsoever, permit him, her, or them to take a copy or copies, or an extract or extracts thereof respectively, and that the copy and copies of any such oath or declaration, registry or entry, shall, upon being proved to be true copy or copies thereof respectively, be allowed and received as evidence upon every trial at law, without the production of the original or originals, and without the testimony or attendance of any registering officer, or other person or persons acting for them respectively, in all cases, as fully and to all intents and purposes as such original or originals, if produced by any registering officer, or other person or persons acting for them, could or might legally be admitted or received in evidence.

False declaration.

Falsifying documents.

XXIII. And it is hereby enacted, that if any person or persons shall falsely make declaration to any of the matters hereinbefore required to be verified by declaration—or if any person or persons shall counterfeit, erase, alter, or falsify any certificate or other instrument in writing required or

directed to be obtained, granted, or produced by this Act—or shall knowingly or wilfully make use of any certificate or other instrument so counterfeited, erased, altered, or falsified—or shall wilfully grant such certificate or other instrument in writing knowing it to be false, such person or persons shall for every such offence be liable, on conviction upon information as aforesaid, to a penalty not exceeding 10,000 rupees. And if any such offence be committed by the owner of any ship or vessel, the certificate of such ship or vessel shall thenceforth be wholly void.

Ships of Native States

XXIV. And it is hereby enacted, that when any ship or vessel duly registered under this Act, or sailing under the British Navigation Law, shall come to be owned by a Native Prince or State, or by any subject of such Native Prince or State as aforesaid, it shall be lawful for the Governor of Fort William in Bengal, or for the Governor in Council of any Presidency, to continue to such ship or vessel the privileges and advantages of a British ship for the purposes aforesaid, by a pass to be issued under the Company's seal and subscribed by a secretary to Government, stating the voyage or voyages for which the same is to have effect, and the period for which it is to last; and it shall be lawful for the Governor of Fort William in Bengal, or the Governor in Council of any Presidency, to issue a similar pass conferring the privileges and advantages of a British ship, for the purposes aforesaid, under this Act, to any ship or vessel built within the dominions of such Native Prince or State, and owned by such Prince or State, or by any of their subjects. Provided always, that the ships belonging to Native Princes or States, or their subjects, in respect of which passes may be granted under this Act, shall, during the voyage or voyages, or the period for which any such pass shall be granted, be commanded by a subject of Her Majesty for whom the Governor-General in Council has power to legislate.

Fees.

XXV. And it is hereby enacted, that the fees demandable in respect of the granting any certificate or pass under this Act shall be fixed, from time to time, according to the directions of the Governor-General in Council, but so that the same shall not exceed the amount of fees now payable for registering or granting passes to ships or vessels at the different Presidencies.

Ports to which ships belong.

XXVI. And it is hereby declared and enacted, that all ships or vessels registered under this Act shall be deemed to belong to the ports at which they shall be respectively registered. And all ships or vessels being registered, or in respect of which passes may have been granted which are unexpired at the time of passing this Act, shall, for the purpose of being deemed British ships, be deemed to belong to the ports at which they may have been registered, or when passes shall have been granted which are unexpired, at which such passes may have been respectively granted. And such ships or vessels built and owned as required by the statute 3 and 4 Vict., c. 56, shall continue subject to all the rules in force at the respective Presidencies before the passing of this Act, touching the registering, measurement, granting passes or other requisitions in respect of the same, and shall not be subject to the provisions of this Act, or any provisions of the statute law, a compliance with which

may heretofore have been necessary in order that ships or vessels built and owned as aforesaid might be deemed British ships for the purposes of trade.

PROCLAMATION.

The Governor-General of India in Council hereby declares, that all ships and vessels built or to be built within the limits of the Charter of the East-India Company (as those limits are defined by the statute 3rd and 4th of Queen Victoria, c. 56, entitled "An Act further to regulate the Trade of Ships built and trading within the Limits of the East-India Company's Charter"), being owned by Her Majesty's subjects, for whom the said Governor-General in Council has power to legislate, and belonging, under the provisions of the Act, passed by the Governor-General in Council, No. X. of 1841, to any ports in the territories under the Government of the East-India Company, shall be deemed to be British ships for all purposes of trade within the said limits, including the Cape of Good Hope and the territories and dependencies thereof.

A.D. 1841. ACT XI.*

An Act *for consolidating and amending the Regulations concerning Military Courts of Requests for Native Officers and Soldiers in the Service of the East-India Company:* Passed *by the Right Honourable the Governor-General of India in Council, on the 5th July,* 1841.

All regulations respecting Military Courts of Requests repealed. Powers of single officers appointed for trial of small suits in bazars and cantonments not to be affected.

I. It is hereby enacted, that all Regulations and parts of Regulations concerning Military Courts of Requests are repealed. Provided always, that nothing in this Act contained shall be held to alter or affect the jurisdiction of a single officer duly authorized and appointed, under the rules in force in the Madras and Bombay Presidencies, for the trial of small suits in military bazars at cantonments and stations occupied by the troops of those Presidencies respectively; or the trial by punchayet of suits against military persons, according to the rules in force under the Madras Presidency.

See Sec. xxi., Reg VII., 1832.

Personal actions for an amount under 200 rupees against persons amenable to the Articles of War, cognizable only in a Military Court.

II. And it is hereby enacted, subject to the aforesaid proviso, that within the territories of the East-India Company actions of debt and other personal actions against native officers, soldiers, and other persons amenable to the Articles of War for the native forces in the military service of the East-India Company, or residing within any station or cantonment, and carrying on any trade or business in a military bazar, shall be cognizable before a Military Court, and not elsewhere, provided the value in question

* The Articles of War in force at Madras when this Act was passed were contained in Regulation V., 1827; they were superseded by those issued in Act XX., 1845, and these last were repealed by Act XIX., 1847, in which the new Articles of War were promulgated. All camp-followers were declared amenable to this Act by Act XII., 1842.

shall not exceed 200 rupees, and the defendant was a person of the description above mentioned, when the cause of action arose, and when the suit was instituted. Provided that no suit shall be brought before any Military Court under this Act to determine any dispute of caste or concerning any right to real property.

Proviso.

Commanding officer to convene the courts; how they are to be composed.

III. And it is hereby enacted, that the commanding officer of any station or cantonment, or officer commanding any portion of troops in the field, is authorized to convene such Military Courts. And such courts shall be composed, according to the orders of the Commander-in-Chief for the time being of the Presidency within which the station or cantonment is situate, or, in the absence of such orders, according to the discretion of the convening officer, either of not less than three European commissioned officers, or of not less than three native commissioned officers, and, in the latter case, with a European officer of not less than five years' standing, to superintend and record the proceedings. Provided that if there be not a sufficient number of officers to constitute a court at the station or cantonment where any cause of action may arise, or where the defendant may be residing, the suit shall be determined at the nearest station or cantonment where a Military Court can be duly constituted as aforesaid.

Courts to be convened monthly.

IV. And it is hereby enacted, that such Military Courts shall be convened monthly, and shall be holden on some convenient day before the issue of the pay for each month.

Forms of proceedings.

V. And it is hereby enacted, that the forms of proceeding in every such court shall be conformable to the usages observed on trials before courts-martial held for the native troops in the service of the East-India Company, as far as the same are applicable. And any such court shall have the like power of summoning witnesses as is possessed by courts-martial. Provided always, that every such court shall have the power of examining the parties to any suit, and of requiring or dispensing with their attendance at its discretion. And every such court shall have the like power of taking the examinations of absent parties and witnesses as is possessed by the civil courts of the East-India Company, under Act No. VII. of 1841, provided that the depositions taken under a commission issued by any Military Court of Requests shall be receivable in evidence before any such court subsequently held. Provided also, that commissions may be issued by Military Courts of Requests under this Act, pursuant to the provisions of Act No. VII. of 1841, notwithstanding the courts to which the commissions may be directed are not situate beyond the jurisdiction of such Military Courts.

Examination of the parties and their witnesses.

Punishment of recusant witnesses, perjury, and subornation of perjury.

VI. And it is hereby enacted, that witnesses omitting to attend, refusing to give evidence, or committing perjury, and persons suborning witnesses to commit perjury, shall be tried and punished, if amenable to Articles of War, by a court-martial, subject to all the rules contained in such Articles of War for the punishment of such offences in regard to trials for military offences; and if not amenable to Articles of War, they may be tried and punished in the nearest of the courts of the East-India Company for the administration of criminal justice (whether such court

have ordinarily jurisdiction over such person in criminal matters or not) in like manner as if such offences had been committed in regard to any trial before such nearest court.

Contempt of the court how punishable.

VII. And it is hereby enacted, that any person, civil or military, European or native, using menacing words, signs, or gestures, or otherwise interrupting (whether being personally present or not) the proceedings of any Military Court of Requests, shall be punishable, if amenable to Articles of War, by a court-martial, or if not amenable to Articles of War, in the nearest of the courts of the East-India Company for the administration of criminal justice (whether such court have ordinarily jurisdiction over such person in criminal matters or not), in like manner as if the offence had been committed in regard to any proceeding of the court to which it is so referred.

Record of proceedings to be kept.

VIII. And it is hereby enacted, that a record shall be kept of proceedings in every case tried before any Military Court of Requests. And such record shall contain the substance of the evidence given, and the nature of such evidence as may have been rejected, on the ground of its not being legally admissible, or relevant, or on other grounds, and the same shall be signed by the members of the said court. And such record or a copy thereof shall, with as little delay as is practicable, after the conclusion of the proceedings, be transmitted by the European president, or superintending officer of every such court, to the officer commanding the station or cantonment.

Two hundred rupees only recoverable, and judgment for that amount to bar all further claims on same account.

IX. And it is hereby enacted, that where a demand shall exceed the amount of 200 rupees, or where several separate demands shall exceed such amount, no more shall be recoverable from any one defendant by the same plaintiff or plaintiffs than the sum of 200 rupees only—and the judgment in respect of any demand in a Court of Requests shall be a bar to the recovery of the same demand, or of any other or further demand for the same cause of action, in any other court whatever, provided that the liability accrued before the time of instituting the suit in the Military Court—and it shall be competent for every such Military Court to investigate any counterclaim alleged by any defendant. And it shall be competent for every such Military Court to allow the interest for money agreed on between the parties, provided the same does not exceed the usage of the country in ordinary money transactions. And every contract made after the passing of this Act, upon which a demand for debt exceeding 20 rupees is founded, not being money due for goods bought and delivered, shall be in writing, and expressed in the language of the defendant, and signed by him, or on his behalf by some other person than the plaintiff. Provided that it shall not be competent to any Court of Requests to admit any suit for a debt which has accrued upwards of six years, unless a direct promise to pay made within six years of the commencement of the suit be proved.

Interest.

Contracts for sums above twenty rupees to be in writing.

Limitation of time.

Suits may be decided in absence of parties neglecting to proceed.

X. And it is hereby enacted, that on failure of either of the parties to a suit to attend, either personally or by representative, or to produce his witnesses according as he shall be required by any Military Court of

Requests, such court, on being satisfied that the party has been duly apprized of what is required of him, may proceed to the termination of the suit in his absence. And if the decree in any such case shall be against the plaintiff, it shall not be competent for him to commence a new suit for the same cause of action.

Commanding officer may return decision for revision; second decree annullable only by Commander-in-Chief.

XI. And it is hereby enacted, that it shall be lawful for the commanding officer to whom the proceedings have been transmitted as aforesaid, to return the same for revision, either by the same or another Military Court of Requests. And in every such case the second decree shall be final, unless for error in points of law, when the same shall be transmitted to the Commander-in-Chief, who shall have power to annul the proceedings without prejudice to any future suit. Provided always, that in the case of any new trial the court may receive evidence which was not adduced at the first trial.

New evidence may be adduced on new trial.

How claims are to be preferred and brought on.

XII. And it is hereby enacted, that every plaintiff shall prefer his claim in writing, and shall deliver the same to the station staff-officer. The claims shall be entered in a schedule by the station staff-officer, which schedule is to be sent to adjutants of corps or heads of departments two days at least before the assembly of the court, and the adjutants or heads of departments shall be responsible that the defendants belonging to their respective corps or establishments have been duly summoned.

Decrees to be published in station orders before execution.

XIII. And it is hereby enacted, that every decree of any Military Court of Requests shall be published in the station orders before the same is executed.

Execution of the decree may be general or special.

XIV. And it is hereby enacted, that the execution of decrees of Military Courts of Requests may be either general or special, according to the sentence of the court. Provided always, that the commanding officer may, notwithstanding the direction of the court, order that the execution shall be general or special at his discretion.

Under general execution, debt to be paid forthwith, or levied by sale of goods.

Imprisonment of persons not soldiers.

Deductions from pay of soldiers.

XV. And it is hereby enacted, that in cases in which the execution is to be general, the debt, if not paid forthwith, shall, under the authority of the commanding officer in writing to be signed by him, be levied by seizure and public sale of such of the debtor's goods (under which term are included houses or other erections within the limits of stations and cantonments) as may be found within the limits of the station or cantonment, or elsewhere; and if sufficient goods are not to be found, the debtor, if not a soldier, shall be arrested and imprisoned in any civil gaol near to the station or cantonment (for which purpose the provisions of Act No. II. of 1840 shall be applicable), or in any other convenient place of confinement situate within the limits of the station or cantonment, for the space of two months, unless the debt be sooner paid, and his goods, if found within the limits of the station or cantonment or elsewhere, at any subsequent time, shall be liable to be seized and sold in satisfaction of the debt. And if the debtor be a soldier, and the debt be not liquidated by sale of his effects, accoutrements and necessaries excepted, an order may be issued

for payment of the residue by monthly deduction from the pay issued to the debtor under the rules which follow.

XVI. And it is hereby enacted, that where the execution is to be special, the debt shall be satisfied out of the pay and allowances of the debtor, and not otherwise. And a certificate of the decree, and direction or order thereon, certified under the hand of the commanding officer and signed by him, shall be a sufficient authority for making such stoppages. Provided always, that no more than one-half of the pay and allowances of any commissioned officer, or than one-fourth of the pay and allowances of any non-commissioned officer or soldier, shall be stopped in any one month.

Under special execution, debt to be liquidated by deductions from pay

Amount of deductions.

XVII. And it is hereby enacted, that in places beyond the frontier of the territories of the East-India Company, actions of debt and other personal actions may be brought before such Military Courts as aforesaid against persons so amenable as aforesaid for any amount of demand. Provided that such Military Courts beyond the frontier shall be composed of European officers—and provided, that if the amount of claim shall exceed 200 rupees, an appeal shall lie to the Court of Sudder Adawlut of the nearest Presidency, according to the rules in force with regard to appeals from subordinate civil courts.

Beyond the frontier, actions may be brought for any amount.

Appeal in cases above 200 rupees.

XVIII. And it is hereby enacted, that this Act shall not affect the proceedings upon any suit heretofore commenced, or which shall be commenced before the tenth day of August next.

Not to affect suits brought before 10th August, 1841.

A.D. 1841. ACT XIII.

An Act *for explaining the Provisions of Act No. XXV. of* 1836: Passed *by the Right Honourable the Governor-General of India in Council, on the* 16*th of August*, 1841.

I. It is hereby declared and enacted, that the import duty on wine and spirits in casks shall be settled on the quantities registered at the time of importation, without any deduction whatsoever. Provided always, that the keeper of every warehouse indicated by Act No. XXV. of 1836 shall, in accounting with the customs department for the article so warehoused, be allowed ullage on such wine and spirits at the rate of ten per cent. for one year, according to the time for which such wine and spirits shall have been lodged.

How import duty on wines and spirits shall be settled

A.D. 1841. ACT XVI.

AN ACT *concerning the taking of Oaths of Qualification by Justices of the Peace:* PASSED *by the Right Honourable the Governor-General of India in Council, on the* 30*th of August*, 1841.

Justices of peace may qualify by taking oaths in any civil or criminal court.

I. WHEREAS inconvenience has arisen in consequence of pursuing the course heretofore deemed necessary for taking of oaths by justices of the peace, in order that they may be duly qualified to act under commissions of the peace, it is hereby enacted, that all persons who are or shall be nominated and appointed in any commission of the peace, shall be capable of acting as justices of the peace in every respect, according to the tenor of such commission, upon taking and subscribing in any Civil or Criminal Court of Justice, within the places in and for which any such commission shall have issued, before the officer presiding in such court, whether such officer be a justice of the peace or not, the oaths appointed to be taken by justices of the peace; and the subscription of such persons to the said oaths shall be deposited and kept with the records of the courts of justice in which the said oaths shall have been administered.

Who may be deemed to have been duly qualified.

II. And it is hereby enacted, that every justice of the peace who, before the passing of this Act, shall have had administered to him the oaths of qualification by any other justice of the peace, shall be deemed to have been duly qualified to act as a justice of the peace from the time of taking such oath, and shall continue so qualified, notwithstanding such oath may not have been taken in a court of justice as required by any previous law, or by this Act.

A.D. 1841. ACT XVIII.

AN ACT *for consolidating and amending the Enactments concerning the Exportation of Military Stores:* PASSED *by the Right Honourable the Governor-General of India in Council, on the* 30*th of August*, 1841.

Arms and military stores can be exported only under license.

I. IT is hereby enacted, that arms, ammunition, and military stores (with the exception of arms in the possession of individuals for private use), shall not be exported, or otherwise taken from the territories of the East-India Company, without a license from a public officer or officers for each Presidency, to be indicated by the Governments of the respective Presidencies for the purpose of granting such licenses, and a full compliance with all such rules and conditions as may be prescribed for the guidance of such officer or officers in regard to such exports by the aforesaid

Governments respectively. And any arms, ammunition, or military stores which any person shall export, or attempt to export, or take as aforesaid, contrary to this Act, shall thereby become forfeited, on the award of the officer or officers authorized as aforesaid to grant licenses, or the collector of customs; and every person offending in the premises contrary to this Act shall be liable, on conviction before a magistrate, to a penalty not exceeding 500 rupees.

More than 50 lbs. of gunpowder may not be kept in one place without a license.

II. And it is hereby enacted, that any person who shall collect or keep in one place, or within places not exceeding three miles in distance from each other, any quantity of gunpowder exceeding fifty pounds, without a license from such officer as aforesaid, shall be liable, on conviction before a magistrate, to a penalty not exceeding 500 rupees, and such gunpowder shall become forfeited on the award of the officer or officers authorized to grant licenses as aforesaid, or the collector of customs.

Local governments may allow such exportations without license.

III. And it is hereby enacted, that it shall be lawful for any of the Governments aforesaid to allow at any port or ports, the exportation of arms, ammunition, and military stores as aforesaid, without any such license as aforesaid, as they shall deem expedient.

A.D. 1841. ACT XIX.

[Extended to Madras by Act VIII., 1842.]

An Act *for the Protection of Moveable and Immoveable Property against wrongful Possession in Cases of Successions:* Passed *by the Right Honourable the Governor-General of India in Council, on the 6th of September*, 1841.

Preamble.

I. Whereas much inconvenience has been experienced, where persons have died possessed of moveable and immoveable property, and the same has been taken upon pretended claims of right by gift of succession; the difficulty of ascertaining the precise nature of the moveable property in such cases; the opportunities for misappropriating such property, and also the profits of real property; the delays of a regular suit when vexatiously protracted; and the inability of heirs, when out of possession, to prosecute their rights, affording strong temptations for the employment of force or fraud in order to obtain possession. And whereas, from the above causes, the circumstance of actual possession, when taken upon a succession, does not afford an indication of rightful title equal to that of a decision by a judge after hearing all parties in a summary suit, though such summary suit may not be sufficient to prevent a party removed from possession

thereby from instituting a regular suit. And whereas such summary suit, though it will take away many of the temptations which exist for assuming wrongful possession upon a succession, will be too tardy a remedy for obviating them all, especially as regards moveable property. And whereas it may be expedient, prior to the determination of the summary suit, to appoint a curator to take charge of property upon a succession, where there is reason to apprehend danger of misappropriation, waste, or neglect, and where such appointment will, in the opinion of the authority making the same, be beneficial under all the circumstances of the case. And whereas it will be very inconvenient to interfere with successions to estates by the appointment of curators, or by summary suits, unless satisfactory grounds for such proceedings shall appear, and unless such proceedings shall be required by or on the behalf of parties giving satisfactory proof that they are likely to be materially prejudiced if left to the ordinary remedy of a regular suit:

Persons claiming a right in property of deceased persons, may apply to judge of civil court.

It is hereby enacted, that whenever a person dies leaving property, moveable or immoveable, it shall be lawful for any person claiming a right by succession thereto, or to any portion thereof, to make application to the judge of the court of the district where any part of the property is found or situate, for relief, either after actual possession has been taken by another person, or when forcible means of seizing possession are apprehended.

Agents and the Court of Wards may likewise apply.

II. And it is hereby enacted, that it shall be lawful for any agent, relative, or near friend, or for the Court of Wards in cases within their cognizance, in the event of any minor, disqualified, or absent person being entitled by succession to such property as aforesaid, to make the like application for relief.

What inquiry the judge is to make.

III. And it is hereby enacted, that the judge to whom such application shall be made shall, in the first place, inquire by the solemn declaration of the complainant, and by witnesses and documents at his discretion, whether there be strong reasons for believing that the party in possession, or taking forcible means for seizing possession, has no lawful title, and that the applicant, or the person on whose behalf he applies, is really entitled and is likely to be materially prejudiced if left to the ordinary remedy of a regular suit, and that the application is made bonâ fide.

Judge may decide summarily the right to possession,

may appoint an officer to take temporary charge.

IV. And it is hereby enacted, that in case the judge shall be satisfied of the existence of such strong ground of belief, but not otherwise, he shall cite the party complained of, and give notice of vacant or disturbed possession by publication, and after the expiration of a reasonable time shall determine summarily the right to possession (subject to regular suit as hereinafter mentioned), and shall deliver possession accordingly. Provided always, that the judge shall have the power to appoint an officer who shall take an inventory of effects, and seal or otherwise secure the same, upon being applied to for the purpose, without delay, whether he shall have concluded the inquiry necessary for citing the party complained of or not.

Judge may appoint a curator.

V. And it is hereby enacted, that in case it shall further appear, upon such application and examination as aforesaid, that danger is to be appre-

hended of the misappropriation or waste of the property before the summary suit can be determined, and that the delay in obtaining security from the party in possession, or the insufficiency thereof, is likely to expose the party out of possession to considerable risk, provided he be the lawful owner; it shall be lawful for the judge to appoint one or more curators with the powers hereinafter next mentioned, whose authority shall continue according to the terms of his or their respective appointments, and in no case beyond the determination of the summary suit and the confirmation or delivery of possession in consequence thereof. Provided always, that, in the case of land, the judge may delegate to the collector, or to his officer, the powers of a curator, and also that every appointment of a curator in respect of any property be duly published.

In cases of land, the collector may be the curator.

VI. And it is hereby enacted, that the judge shall have power to authorize such curator, either to take possession of the property generally, or until security be given by the party in possession, or until inventories of the property shall have been made, or for any other purpose necessary for securing the property from misappropriation or waste by the party in possession. Provided always, that it shall be entirely discretionary with the judge, whether he shall allow the party in possession to continue in such possession on giving security, or not, and any continuance in possession shall be subject to such orders as the judge may issue touching inventories, or the securing of deeds or other effects.

For what period possession may be given to curator.

In what cases party may be continued in possession.

VII. And it is hereby enacted, that the judge shall exact from the curator security for the faithful discharge of his trust, and for rendering satisfactory accounts of the same as hereinafter mentioned, and may authorize him to receive out of the property such remuneration as shall appear reasonable, but in no case exceeding five per centum on the personal property, and on the annual profits of the real property. All surplus moneys realized by the curator shall be paid into court, and invested in public securities for the benefit of the persons entitled thereto upon adjudication of the summary suit. Provided always, that although security shall be required from the curator with all reasonable dispatch, and, where it is practicable, shall be taken generally to answer all cases for which the person may be afterwards appointed curator, yet no delay in the taking of security shall prevent the judge from immediately investing the curator with the powers of his office.

Security to be given by curator. His responsibility.

VIII. And it is hereby enacted, that, where the estate of the deceased person shall consist wholly, or in part, of land paying revenue to Government, in all matters regarding the propriety of citing the party in possession, of appointing a curator, and of nominating individuals to that appointment, the judge shall demand a report from the collector, and the collector is hereby required to furnish the same. In cases of urgency, the judge may proceed, in the first instance, without such report, and he shall not be obliged to act in conformity thereto; but, in case of his acting otherwise than according to such report, he shall immediately forward a statement of his reasons to the Court of Sudder Dewanny Adawlut, and the Court of Sudder Dewanny Adawlut, if they shall be dissatisfied with

In cases of land, what communication the judge shall hold with the curator.

such reasons, shall direct the judge to proceed conformably to the report of the collector.

Curator may conduct suits on behalf of estate.

IX. And it is hereby enacted, that the curator shall be subject to all orders of the judge regarding the institution or the defence of suits, and that all suits may be instituted or defended in the name of the curator on behalf of the estate. Provided that an express authority shall be requisite, in the sunnud of the curator's appointment, for the collection of debts or rents; but such express authority shall enable the curator to give a full acquittance for any sums of money received by virtue thereof.

Judge may grant allowance to claimant pending inquiry.

X. And it is hereby enacted, that pending the custody of the property by the curator, it shall be lawful for the judge to make such allowances to parties having a primâ facie right thereto as, upon a summary investigation of the rights and circumstances of the parties interested, he shall consider that necessity may require, taking, at his discretion, security for the repayment thereof with interest, in case the party shall, upon the adjudication of the summary suit, appear not to be entitled thereto.

Curator to render monthly and quarterly accounts.

XI. And it is hereby enacted, that the curator shall file monthly accounts in abstract, and at the period of every three months, if his administration last so long, and upon giving up the possession of the property, file a detailed account of his administration to the satisfaction of the judge.

Curator's accounts open to inspection.

Punishment for false accounts, or for delay in rendering.

XII. And it is hereby enacted, that the accounts of any such curator as is above described shall be open to the inspection of all parties interested; and it shall be competent for any such interested party to appoint a separate person to keep a duplicate account of all receipts and payments by such curator. And if it be found that the accounts of any such curator are in arrear, or if they shall be erroneous or incomplete, or if the curator shall not produce them whenever he shall be ordered to do so by the judge, he shall be liable to a fine not exceeding one thousand rupees for every such default.

In what cases several curators may be appointed.

XIII. And it is hereby enacted, that after the judge of any district shall have appointed any curator, such appointment shall preclude the judge of any other district within the same Presidency from appointing any other curator, provided the first appointment be in respect of the whole of the property of the deceased. But if the appointment be only in respect of a portion of the property of the deceased, this shall not preclude the appointment, within the same Presidency, of another curator in respect of the residue of any portion thereof. Provided always, that no judge shall appoint a curator, or entertain a summary suit, in respect of property which is the subject of a summary suit previously instituted under this Act before another judge,—and provided further, that if two or more curators be appointed by different judges for several parts of an estate, it shall be lawful for the Sudder Dewanny Adawlut to make such order as it shall think fit for the appointment of one curator of the whole property.

Limitation.

XIV. And it is hereby provided, that this Act shall not be put in

force, unless the aforesaid application to the judge be made within six months of the decease of the proprietor, whose property is claimed by right in succession.

Directions of deceased proprietors to be attended to.

XV. And it is hereby enacted, that this Act shall not be put in force to contravene any public act of settlement. Neither in cases in which the deceased proprietor shall have given legal directions for the possession of his property after his decease, in the event of minority or otherwise, in opposition to such directions, but, in every such case, so soon as the judge having jurisdiction over the property of a deceased person, shall be satisfied of the existence of such directions, he shall give effect thereto.

Reservation of the rights of the Court of Wards.

XVI. And it is hereby provided, that this Act shall not be put in force, for the purpose of disturbing the possession of the Court of Wards of any Presidency; and in case a minor, or other disqualified person whose property shall be subject to the Court of Wards, shall be the party on whose behalf application is made under this Act, the judge, if he determines to cite the party in possession, and also appoint a curator, shall invest the Court of Wards with the curatorship of the estate pending the suit, without taking such security as aforesaid, and in case the minor or other disqualified person shall, upon the adjudication of the summary suit, appear to be entitled to the property, possession shall be delivered to the Court of Wards.

Not to bar regular suits.

XVII. And it is hereby provided, that nothing in this Act contained shall be any impediment to the bringing of a regular suit, either by the party whose application may have been rejected, before or after citing the party in possession, or by the party who may have been evicted from the possession under this Act.

Summary decision final as to possession.

XVIII. And it is hereby enacted, that the decision of the judge upon the summary suit under this Act shall have no other effect than that of settling the actual possession; but that for this purpose it shall be final, not subject to any appeal or order for review.

Local governments may appoint local curators.

XIX. And it is hereby enacted, that it shall be lawful for the governments of the respective Presidencies to appoint public curators for any district or number of districts. And the judge having jurisdiction shall nominate such public curator or curators in all cases where the choice of a curator is left discretionary with him under preceding provisions of this Act.

Supreme Courts how to proceed in respect of property of persons dying within their jurisdiction.

XX. And it is hereby enacted, that whenever a person dies leaving moveable or immoveable property within the local limits of the jurisdiction of any of Her Majesty's Supreme Courts, and such court shall be satisfied that danger is to be apprehended of the misappropriation and waste of the property before it can be ascertained who may be legally entitled to the succession to such property, it shall be lawful for the said court to authorize and enjoin the ecclesiastical registrar, or one or more curators, to collect such effects, and hold or deposit or invest the same in such manner and place, and upon such security and subject to such orders and directions, as the court may deem expedient.

A.D. 1841. ACT XX.

[Extended to Madras by Act VIII., 1842.]

An Act *for facilitating the Collection of Debts on Successions, and for the Security of Parties paying Debts to the Representatives of deceased Persons:* Passed *by the Right Honourable the Governor-General of India in Council, on the 6th of September,* 1841.

Preamble.

I. Whereas it is expedient to provide greater security for persons paying to the representatives of deceased Hindoos, Mahomedans, and others not usually designated as British subjects, debts which are payable in respect of the estates of such deceased persons, and to facilitate the collection of such debts by removing all doubts as to the legal title to demand and receive the same:—

No debt recoverable without a certificate.

It is hereby enacted, that no debtor of any deceased person shall be compelled in any court of law to pay his debt to any person claiming to be entitled to the effects of any deceased person, or any part thereof, except on the production of a certificate to be obtained in manner hereinafter mentioned, or of a probate or letters of administration, unless the court shall be of opinion that payment of the debt is withheld from fraudulent or vexatious motives, and not from any reasonable doubt as to the party entitled.

Manner of obtaining certificate.

II. And it is hereby enacted, that the zillah or district court within the jurisdiction of which any part of the property of the deceased may be found shall have authority to grant a certificate under this Act. The applicant in his petition shall set forth his title. The judge shall issue notice of application, inviting claimants, and fixing a day for hearing the petition, and upon the appointed day, or as soon after as may be convenient, shall determine the right to the certificate, and grant the same accordingly.

Effect of certificate.

III. And it is hereby enacted, that the certificate of the district or zillah judge shall be conclusive of the representative title against all debtors to the deceased, and shall afford full indemnity to all debtors paying their debts to the person in whose favour the certificate has been granted.

Security taken from grantee of certificate.

IV. And it is hereby enacted, that the district or zillah judge may take such security as he shall think necessary from any person to whom he shall grant a certificate for rendering an account of debts received by him, and for indemnity of persons who may be entitled to the whole or any part of the moneys received by virtue of such certificate, whose right to recover the same by regular suit against the holder of the certificate is not affected by this Act.

V. And it is hereby enacted, that the granting of such certificate may be suspended by an appeal to the Court of Sudder Dewanny Adawlut, which court may declare the party to whom the certificate should be granted, or may direct such further proceedings for the investigation of the title as it shall think fit. The court may also upon petition, after a certificate shall have been granted by the district or zillah judge, grant a fresh certificate in supersession of the certificate granted by the district or zillah judge, and such fresh certificate shall not affect any payments made to the person to whom any former certificate may have been granted without notice that the same has been superseded, but shall entitle the person named therein to receive all moneys that may have been recovered under the first certificate from the person to whom the same may have been granted.

Decision of judge how far final.

VI. And it is hereby enacted, that every certificate shall give authority to the person to whom the same is granted throughout the Presidency within which the same is granted, and no certificate subsequently granted in respect of the same property shall be valid or effectual, except as hereinafter mentioned.

Local extent of power given by certificate.

VII. And it is hereby enacted, that a person certified as aforesaid, may be empowered to receive interest on Government notes and dividends, or on shares of any bank or parts thereof, and to negotiate such securities. He may be also empowered to receive a share of such interest or dividends or to negotiate a share of such securities. But these powers shall only arise by express words in the certificate.

Government notes and dividends.

VIII. And it is hereby enacted, that where a certificate shall have been granted in cases in which such certificate would be valid but for the previous grant of a certificate, all payments made to the person holding the later certificate, in ignorance of the grant of the previous certificate, shall be held good against claims under such previous certificate.

Payments under certificate void by reason of previous certificate.

IX. And it is hereby enacted, with regard to the property of deceased Hindoos, Mahomedans, and other persons not usually designated by the term British subjects, that no certificate in respect of any such property shall be valid, if made after a probate or letters of administration granted in respect of the same, provided assets belonging to the deceased were at the time of his death within the local jurisdiction of the court granting the probate or letters of administration.

Certificate after previous grant of probate or letters void.

X. And it is hereby provided, that where a certificate shall have been granted, in cases in which such certificate would be valid but for a probate or letters of administration previously granted, all payments made to the person holding the certificate, in ignorance of the previous granting of the probate or letters of administration, shall be held good against claims under the probate or letters of administration so previously granted.

Bonâ fide payments protected.

XI. And it is hereby enacted, that no probate or letters of administration shall be valid for the purpose of the recovery of debts or for the security of debtors, after a certificate granted in respect of the same pro-

Probate or letters after previous grant of certificate.

perty for which such probate or letters of administration shall have been granted, provided assets belonging to the deceased were at the time of his death within the jurisdiction of the court granting such certificate.

Bonâ fide payments protected.

XII. And it is hereby provided, that where probate or letters of administration may have been granted, in cases in which such probate or letters of administration would be valid but for the previous grant of a certificate, all payments made in ignorance of the previous grant of the certificate shall be held good against claims under such previous certificate.

Curators prohibited from exercising certain powers.

XIII. And whereas, under Act No. XIX. of 1841, curators may be invested with certain powers which are conferred on persons obtaining certificates under this Act, and which belong to executors and administrators, it is hereby enacted, that curators appointed under the said Act shall not exercise any powers which, but for that Act, would lawfully belong to such persons obtaining certificates, executors, or administrators, where a certificate, probate, or letters of administration has been actually obtained; but all persons who may have paid debts or rents to a curator authorized by a judge to receive the same shall be indemnified, and the curator shall be responsible for the payment of the same to the person who has obtained a certificate, the executor, or administrator, as the case may be.

Effect of probates and letters granted to representatives of Hindoos and others.

XIV. And it is hereby declared and enacted, that all probates and letters of administration granted by any of Her Majesty's courts in cases in which any assets belonging to deceased persons were, at the time of their deaths, within the local jurisdiction of the court granting the probate or letters of administration, shall have the effect of probate and letters of administration granted in respect of the property of British subjects, but for the purpose of the recovery of debts only, and the security of debtors paying the same; except so far as is in this Act provided.

Act not to extend to the property of British subjects.

XV. And it is hereby provided, that nothing in this Act contained shall be held to extend to the property of any person usually designated as a British subject.

A.D. 1841. ACT XXI.

AN ACT *for the better Prevention of Local Nuisances:* PASSED *by the Right Honourable the Governor-General of India in Council, on the 6th of September,* 1841.

Magistrates may remove nuisances.

I. IT is hereby enacted, that it shall be lawful for any magistrate, when the public benefit and comfort are in question, to cause unlawful obstructions and nuisances to be removed from thoroughfares and public places,

and to suppress or cause to be removed to a different place, trades or occupations injurious to the health or comfort of the community, and to prevent such construction of buildings and such disposal of combustible substances as may appear to him likely to occasion conflagration, and to cause the removal of buildings in such state of weakness, as, by the probability of their falling, may appear to him to expose individuals to danger.

Magistrate to issue injunction.

II. And it is hereby enacted, that, in exercising the authority conferred by the above section, the magistrate shall, after holding such inquiry as may satisfy him of the necessity of proceeding under this Act, issue an injunction, which, if practicable, shall be served personally on the parties concerned; but if such service shall be impracticable or very inconvenient, the injunction shall be notified by oral proclamation, and a written notice thereof shall be set up at such place or places as may be best adapted for conveying information to the parties concerned. And in case such injunction be not obeyed, the magistrate may compel observance thereof by force, and punish disobedience by fine not exceeding 200 rupees, or by imprisonment, without labour, for any period not exceeding one month; and if the magistrate finds it necessary to incur expense in removing noxious or dangerous articles or buildings, it shall be lawful for him to sell the same or their materials by public auction, in order to defray the charge, delivering any surplus that may remain to the owner. And it shall be lawful for the magistrate to compel, under the like penalty, the owners of tanks or wells adjacent to any public thoroughfare to fence the same in such manner as to prevent danger to the public arising therefrom.

Fine for disobedience of such injunction.

Tanks and wells to be fenced.

Parties enjoined may claim a jury or punchayet.

III. And it is hereby provided and declared, that it shall be lawful for any person affected by such injunction or written notice as is above described, if he shall object thereto, to claim, by written petition to be presented to the magistrate within the period of ten days, if reasonably practicable, if not, within the shortest reasonable further time from the receipt of such injunction or the publication of such notice, that a jury or punchayet may be appointed to try and decide the question: and the magistrate shall, on receiving such petition, pass order thereupon for the appointment of a jury or punchayet, which shall consist of not less than five persons, whereof the president and one-half of the other members shall be nominated by the magistrate from the residents in the vicinity, and the remaining members shall be nominated by the party petitioning. And the magistrate shall suspend the further execution of the injunction or order pending such inquiry, and be guided by the decision of the said jury, which shall be according to the opinion of the majority. Provided, however, that if the petitioner shall by neglect or in any other way prevent the appointment of such jury or punchayet, or, if from any cause, the jury so appointed shall not decide and report within a reasonable time to be fixed in the order for their appointment, their functions shall cease from the date of the expiration of such period, unless they be continued by special order of the magistrate; and if, from any of the above causes, no decision be made by a jury or punchayet, the magistrate's order shall take effect as if not opposed.

How to be constituted.

Proceedings in case of neglect by jury or punchayet.

Magistrates' proceedings appealable.

IV. And it is hereby provided, that all the proceedings of magistrates under the authority of this Act shall be subject to the like appeal as other orders of magistrates according to the Regulations of the respective Presidencies.

Not to apply within limits of Supreme Courts.

V. And it is hereby enacted, that this Act shall not be applicable within the local limits of Her Majesty's courts of justice.

A.D. 1841. ACT XXII.

AN ACT *for amending the Law with respect to Rates for Municipal Purposes within the Town of Madras:* PASSED *by the Right Honourable the Governor-General of India in Council, on the* 11*th of October*, 1841.

Preamble.

I. WHEREAS it is expedient to specify the particular purposes to which rates assessed on houses, buildings, and grounds in Madras shall be applied; and to abolish the practice which has hitherto prevailed, of levying five per cent. on the annual value of all houses, buildings, and grounds, without reference to the amount necessary for accomplishing the purposes of the rates; such percentage being inadequate for the purposes to which the rates have hitherto been deemed applicable. And whereas it is expedient to make the percentage leviable by quarterly or other convenient rates on the annual value of property, to depend entirely on the expenditure necessary for accomplishing, in an efficient manner, the purposes to which the rates shall henceforth be applicable, and providing for all incidental expenses and casual deficiencies or defaults. And whereas it is expedient to subject the collection and administration of the funds raised for municipal purposes, in the various districts of the town, to the management of the rate-payers themselves within such districts respectively, whenever they are desirous of undertaking the same, and are willing to enter into proper arrangements for the purpose. And whereas it is expedient to modify the provisions of the statute 33 Geo. III., c. 52, in regard to assessments for the town of Madras in order for the better collection of the same, reserving all the authority of such statute in matters not inconsistent with this Act:

Town assessment how applicable

It is hereby enacted, that the assessments which, by the statute 33 Geo. III., c. 52, are authorized to be made for the town of Madras, shall be applicable to the following purposes only, viz. lighting and watering the roads and streets, and cleansing and repairing the same and the drains of the said town.

Sufficient rate to be levied;

II. And it is hereby enacted, that the assessment and rates made under the authority of the said statute shall be sufficient for accomplishing, in an efficient manner, the purposes mentioned in the last section, for discharging all incidental expenses, and for making up deficiencies and

defaults of every kind whatsoever. Provided always, that no rate shall be made exceeding the amount of five per cent. on the assessed value of property without the sanction of the Governor in Council of Fort St. George in Madras.

not to exceed five per cent without sanction of Governor in Council

III. And it is hereby enacted, for the encouragement of the control and supervision of the assessment and collection of the rates and the management thereof, within particular divisions, being undertaken by the rate-payers themselves, the justices at their quarter sessions shall publish quarterly, or as required by the local Government, the particulars of all sums laid out, and of all the expenses of collection and deficiencies during the preceding quarter, within three or more divisions of the town, to be indicated by the Governor in Council of Fort St. George in Madras before this Act shall be allowed to come into operation, or such other divisions as the Governor in Council of Fort St. George in Madras may, from time to time, direct, so long as the assessment, collection, or management of the rates for such divisions shall remain under the jurisdiction of the justices.

Certain accounts to be published

IV. And it is hereby enacted, whenever two-thirds in number and value of the rate-payers of any of such respective divisions shall apply to the Governor in Council of Fort St. George in Madras, to undertake themselves the assessment, collection, and management of the rates of such division, or any or either of these trusts, it shall be lawful for the Governor of Fort St. George in Madras to authorize the same accordingly, at his discretion. Provided always, that such majority of rate-payers shall present a scheme which shall obtain his full approbation for the safe and efficient execution of the trusts, the transfer of which from the present authorities is sought for. Provided always, that in any such arrangement, the amount to be levied in any particular division shall not be considered as necessarily limited by the amount expended within such division, but shall be adjusted by the Governor in Council of Fort St. George in Madras upon reference to all local circumstances.

Government may authorize rate-payers to assess, collect, and manage rates in divisions

Proviso.

V. And it is hereby enacted, that for the better assessment and collection of rates under this Act, it shall be lawful for the Governor in Council of Fort St. George in Madras, to appoint such assessor or assessors, collector or collectors, and to make such union of the offices of assessor and collector, and to prescribe such rules and take such securities for the due execution of this Act by the person or persons employed in assessments and collections and in the management of the rates collected, as he shall deem expedient.

Government may appoint assessors and collectors

VI. And it is hereby enacted, that it shall not be necessary in any assessment, rate, or warrant of distress under this Act, to specify the names of the owners or occupiers of houses, buildings, and ground; but it shall be sufficient if every property rated be identified, and in the case of houses numbered in any street, that the name of the street and number of the house rated be particularly specified.

Properties how to be identified in rates and warrants

VII. And it is hereby enacted, that the goods and chattels of the owner of any property rated shall be seizable anywhere (except where property

What property may be seized in satisfaction of rates.

is concealed as hereinafter mentioned) for deficiency in the payment of rates. And all property which shall be found upon any premises rated, shall be seizable for any arrears which may be due for a period of one year immediately preceding such seizure. And in the case of the seizure of the property of a tenant under such circumstances, he may deduct the amount of the levy from the next payment of his rent.

Execution of warrant in zenanas

VIII. And it is hereby enacted, that where there is ground to suspect that property liable to distress under this Act is concealed in any zenana, the officer charged with the execution of the warrant shall make a special report to the justice granting the same, who shall thereupon follow, as closely as is practicable, the rules for the seizure of property in like cases adopted by Her Majesty's Supreme Court of the Presidency.

One justice of the peace may issue a warrant.

IX. And it is hereby enacted, that it shall be lawful for any one justice of the peace for the town of Madras to issue a warrant of distress for the recovery of the arrears of assessment under this Act, or under the statute 33 Geo. III., c. 52, and every such warrant shall have the same force and effect as if it were under the hands and seals of two such justices.

A.D. 1841. ACT XXIII.

AN ACT *for prohibiting the Importation of Rum and Rum Shrub into the Presidency of Fort St. George, in Madras:* PASSED *by the Right Honourable the Governor-General of India in Council, on the* 11*th of October,* 1841.

Foreign rum or shrub attempted to be imported, liable to seizure and confiscation,

I. IT is hereby enacted, that if any person after the passing of this Act, lands or attempts to land, or shall introduce by land in any part of the territories subject to the Government of the Presidency of Fort St. George, in Madras, any rum or rum shrub, which is the produce of any foreign country, or of any British possession into which foreign sugar or rum can be legally imported, such rum or rum shrub shall be seized by the collector of the customs, or by any other officer authorized to seize and detain contraband goods, and shall be brought to confiscation according to the rules in force for confiscating such goods, unless the district in which such rum or rum shrub is landed, or in which an attempt has been made to land such rum or rum shrub, be a district in which the Governor in Council has authorized the importation of such rum or rum shrub; and it shall be lawful for the Governor in Council to authorize the importation of such rum or rum shrub into any district of the territories aforesaid by an order in the Official Gazette.

but Governor in Council may authorize importation into particular districts

Certificate of origin how to be obtained.

II. And it is hereby enacted, that if any owner of rum or rum shrub, the produce of the said territories, or the duly authorized agent of such

owner, be desirous to obtain a certificate of origin from the collector or assistant collector of the land or customs revenue of any district within the said territories, or from any other officer appointed by the Governor in Council to give such certificates, such owner or agent shall, in the presence of the officer from whom he desires to obtain such certificate, make and subscribe a declaration in the form contained in the schedule hereunto annexed marked (A), and to the said declaration shall be appended a certificate to its verity, from any Government officer who may be attached to the distillery where such rum or rum shrub is declared to have been manufactured, in the form prescribed in the said Schedule (A).

Declaration to be made.

III. And it is hereby enacted, that if the district be one into which the Governor in Council has not, by any order, authorized the importation of foreign sugar or rum, or of sugar or rum the growth or produce of any British possession into which foreign sugar or rum can be legally imported, then the officer before whom such a declaration as is aforesaid shall have been made, shall grant, under his hand and seal, to the declarant, a certificate in the form contained in the schedule hereunto annexed marked (B).

Declaration where foreign sugar may not be imported

IV. And it is hereby enacted, that every person who intends to ship rum or rum shrub from any place within the said territories for any part of the United Kingdom, shall be entitled to produce to the collector of customs at that place, or to any other officer who may have been appointed by the Governments of the respective Presidencies to act on that behalf in place of the collector of customs, a certificate, such as is above described, and also, in the presence of the officer to whom he has so produced such certificate, to make and subscribe a declaration in the form contained in the schedule hereunto annexed marked (C).

Declaration to be made by shipper exporting.

V. And it is hereby enacted, that the officer to whom such a certificate shall have been so produced, and before whom a declaration in the last-mentioned form shall have been so made and subscribed, shall, unless he see cause to deem such declaration fraudulent and untrue, grant to the person who has made the last-mentioned declaration a certificate in the form contained in the schedule hereunto annexed marked (D).

Certificate on production of foregoing declaration.

VI. And it is hereby enacted, that the owner of rum or rum shrub intended for exportation under this Act, or the duly authorized agent of such owner, shall not be entitled to any of the certificates described in this Act unless such rum or rum shrub shall be the produce of a distillery worked according to law in the European method under license from the Board, or other authority vested with the management of the revenue derived from the abkarry, or tax on spirits.

No certificate to be given unless the distillery be worked according to law.

VII. And it is hereby enacted, that the rum and rum shrub manufactured for exportation to the United Kingdom under this Act, at any licensed distillery, shall be manufactured pure, without admixture of spirits made from rice, grains, or any other substance or substances not being the produce of the sugar-cane, or of the date or palm tree, and shall be so declared and verified at the time of application for a certificate of origin according to the form of Schedule (A).

Rum and shrub for exportation to United Kingdom to be made only with the produce of the sugar-cane or palm-tree.

Penalty for adulteration.

VIII. And it is hereby enacted, that if any rum or rum shrub that may be brought to any custom-house for exportation under this Act shall be found to be adulterated, or mixed contrary to the above prohibition, the same, with the casks or materials in which it is contained, shall be seized and confiscated, and the party or parties upon whose declaration a certificate of manufacture free from adulteration or mixture may have been granted for the admission of such rum or rum shrub to the privilege of exportation under this Act, as well as the party or parties who may have verified such declaration, shall be proceeded against for the false and fraudulent declaration as hereinunder prescribed.

Penalty for false declaration.

IX. And it is hereby enacted, that any person who shall, in making any declaration under the authority of this Act, knowingly affirm an untruth, shall, on conviction thereof before such court as would be competent to try such person for perjury, be punished as in cases of perjury; and every person procuring another person to affirm such untruth shall be liable to be punished as in cases of subornation of perjury, and any officer of Government subscribing an attestation to the verity of such declaration, knowing the same to be untrue, shall be subject to a like penalty as the false declarant, besides dismissal from the employment of Government.

No rum or shrub to be manufactured without license.

X. And it is hereby provided, that notwithstanding anything in this Act contained, no person intending to manufacture rum or rum shrub, within the Presidency of Madras, shall establish a distillery for such purpose without making application for a license in manner directed by Regulation I. of 1820, of the Madras code; and every person manufacturing rum or rum shrub within the Madras Presidency, without having first obtained such license, shall be liable to the penalties provided in that Regulation.

SCHEDULE (A).

I. *A. B.*, solemnly declare that all the rum or rum shrub hereinunder described is the produce of the licensed distillery named in the district of , and that the said rum or rum shrub is the produce of the sugar-cane, date, or palm tree, and wholly free from any admixture of spirits manufactured from rice, grains, or any other substance whatever.

(Signed) *A. B.*

The day of 18

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* I, *B. B.*, Government officer in charge on the part of Government of the distillery, do hereby certify that the above is a true and correct declaration.

B. B.
Govt. officer attached to the distillery.

* This declaration must be drawn out before the rum leaves the distillery, in order that the attestation of the Government officer may be attached.

Description of the to which the above Declaration relates.

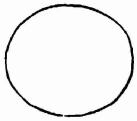
Quantity in Gallons.	Quality.	Average Strength by Sykes's Hydrometer.	Number and Denomination of Packages.	Marks on Packages.

(Signed) A. B.

The day of 18 .
Collector's number .
Collector's date of 18 .

(Signed) Y. Z., Collector.

Seal of the collector.



SCHEDULE (B).

I, *C. D.*, collector of land revenue (or collector of custom revenue, or being an officer appointed by the Governor in Council to act in this behalf) for the district of , do hereby, in conformity with the provisions of Act , grant this certificate, under my hand and seal, that the rum, or rum shrub, described in the declaration hereunto annexed, which is sealed with the seal of this office, numbered of 18 , dated the day of 18 , and signed by , manager or owner of the licensed distillery called is the produce of the district of , and is declared to be free from any admixture of spirits manufactured from other substance than the sugar-cane, date or palm tree, and that the importation of foreign sugar and rum, and of sugar and rum the growth or produce of any British possessions into which foreign sugar and rum can be legally imported, is prohibited in the said district of .

(L.S.) (Signed) *C. D.*

This day of 18

SCHEDULE (C).

I, *E. F.*, shipper of the rum or rum shrub hereinunder described, solemnly declare, that all the rum or rum shrub hereinunder described is, to the

best of my knowledge and belief, the same rum or rum shrub to which the certificate now produced by me relates.

(Signed) *E. F.*

Description of to which this Declaration relates.

Quantity in Gallons.	Quality.	Average Strength by Sykes's Hydrometer.	Number and Denomination of Packages.	Name of Ship or Vessel.	Name of Master of Ship or Vessel.

(Signed) *E. F.*

The day of 18

SCHEDULE (D).

I, *R. W.*, collector of customs (or being an officer appointed by the Governor in Council to act in this behalf) for the port of , certify, under my hand and seal, that there has been produced to me by *E. F.*, the shipper of the rum or rum shrub hereinunder described, a certificate under the hand and seal of *C. D.*, collector of land revenue (or collector of custom revenue, or being an officer appointed by the Governor in Council to act in this behalf) for the district of , in the territories forming part of the Presidency of Fort St. George, which certificate certifies that the said rum or rum shrub is the produce of the said district, and is declared to be free from any admixture of spirits manufactured from other substance than the sugar-cane, date, or palm tree, and that the importation of foreign sugar and rum, or sugar and rum the growth or produce of any British possession into which foreign sugar and rum can be legally imported, is prohibited in the said district.

L.S. (Signed) *R. W.*,
Collector of Customs.

The day of 18 .

Description of the to which the Certificate relates.

Quantity in Gallons.	Quality.	Average Strength by Sykes's Hydrometer.	Number and Denomination of Packages.	Name of Ship or Vessel.	Name of Master of Ship or Vessel.

(Signed) *R. W.*,
Collector of Customs.

A.D. 1841. ACT XXVIII.

AN ACT *for extending Act No. XXIII. of* 1839 *to Camp-followers:* PASSED *by the Right Honourable the Governor-General of India in Council, on the* 15*th of November*, 1841.

I. IT is hereby enacted, that in cases in which an offender, being a soldier, is punishable under Act No. XXIII. of 1839, any offender amenable to any Articles of War for the East-India Company's native forces, not being a commissioned officer, shall be punishable according to that Act, as well as otherwise according to law; and Act No. II. of 1840, shall be applicable to offenders imprisoned under this Act.

Acts XXIII., 1839, and II., 1840, extended to all persons amenable to Articles of War.

* All camp-followers were declared amenable to this Act by Act XII., 1842.

A.D. 1841. ACT XXIX.

AN ACT *for amending such Parts of the Bengal and Madras Codes as concern the dismissal of Suits and Appeals for neglecting to proceed in the same:* PASSED *by the Right Honourable the Governor-General of India in Council, on the* 13*th of December*, 1841.

I. IT is hereby enacted, that if a plaintiff or appellant in any court shall, at any time, neglect to proceed in his suit or appeal for six weeks, the suit or appeal shall be dismissed; and it shall not be necessary to give the plaintiff or appellant any notice previous to dismissing his suit or appeal. The suit or appeal shall be dismissed, as of course, after the expiration of six weeks, without any proceeding on the part of the court, or of the defendant, or otherwise, or assignment of any reasons, unless the plaintiff or appellant, or his representative in case of his death, upon special application, shall have previously satisfied the court of the propriety of allowing further time. The court shall record upon the proceedings the reasons at large for allowing further time in all cases in which further time may be allowed, but it shall not be necessary to specify the reasons for refusing any application for further time.

Every suit or appeal not proceeded in for six weeks to be dismissed, unless special leave be granted for delay.

Modified by Act XVI., 1845.

II. And it is hereby enacted, that in all cases in which a suit or appeal is dismissed under the preceding section, the court shall award to the defendant or respondent* the costs he may have incurred in the suit or appeal. But such dismissal shall be no impediment to the institution of a new suit or appeal, where the party is not precluded by lapse of time, or

Costs to be awarded.

New suit or appeal may be instituted; not to bar law of limitation.

period of appeal, or otherwise than by the mere circumstances of having instituted the suit or appeal dismissed and of such dismissal, and such dismissed suit or appeal shall not prevent lapse of time under the Law of Limitations being incurred.

Repeal of Clause Second, Section XXVII, Regulation VI, 1816.

III. And it is hereby enacted, that Clause Second, Section XXVII., Regulation XXIII. of 1814, of the Bengal Code, and Clause Second, Section XXVI., Regulation VI. of 1816, of the Madras Code, are repealed, and no appeal shall lie against the decision passed in accordance with the provisions of the preceding clauses of this Act, other than a summary appeal on the fact of default.

A.D. 1841. ACT XXX.

AN ACT *for repressing Obstructions to Justice in certain Courts of the East-India Company:* PASSED *by the Right Honourable the Governor-General of India in Council, on the 20th of December,* 1841.

Obstructions of proceedings in courts punishable by fine and imprisonment

I. WHEREAS sufficient provision is not made for repressing obstructions to justice committed in the courts of the East-India Company: It is hereby enacted, that all persons whatsoever, whether generally amenable to the Courts of the East-India Company or otherwise, using menacing gestures or expressions, or otherwise obstructing justice in the presence of any zillah or city magistrate, joint magistrate, or other officer under a a magistrate empowered to try criminal cases, or any superior or inferior court, civil or criminal, of the East-India Company, shall be liable to be fined by the authority whose proceedings are obstructed to any amount not exceeding 200 rupees, or in case such fine be not paid, to be imprisoned for any period not exceeding one month. Provided that from the award of punishment in such cases an appeal shall lie, if preferred within one month, to the authority, civil or criminal, appointed by law to hear appeals in all other cases from the decisions of the officer by whom the fine was imposed; and provided also, that notwithstanding anything in this Act, it shall be lawful to indict any person amenable to her Majesty's Supreme Courts as for a misdemeanor in any of the cases aforesaid sustainable before this Act, if no proceeding shall have been had against the offender in the court where the offence was committed, but not otherwise.

Appeal

Persons amenable to Supreme Courts how to be dealt with

Foregoing provisions extended to revenue authorities

II. And it is hereby further enacted, that the Sudder Board of Revenue, the local commissioners, or other officers exercising the powers of either of those authorities, the collectors, or other officers exercising the powers of collector, shall be competent to punish any obstruction of the nature aforesaid, by fine to an extent not exceeding 200 rupees, and in case such fine be not paid, by imprisonment in the civil jail for a period not exceed-

ing one month. Provided that the orders passed in such cases shall be subject on appeal to the revision and control of the superior revenue authorities, as in all others, and shall, as well as the sentences passed under Section I. of this Act, be carried into effect by the magistrate, on application being made to that officer, in the usual mode. Appeal

III. [Refers to Bengal only.]

A.D. 1842. ACT IV.

FOR *the better Management of Boats and Catamarans in the Madras Roads,* and for the Amendment of certain Harbour Regulations:* PASSED *by the Honourable the President of the Council of India in Council, on the 22nd of July,* 1842, *with the assent of the Right Honourable the Governor-General of India.*

I. WHEREAS it is expedient to make regulations for boats and catamarans employed in the Madras Roads, with a view to the better preservation of good order, the prevention of smuggling, and the general protection of life and property; and whereas certain rules now in force for the harbour of Madras require amendment,— Preamble

It is hereby enacted, that from and after the 1st day of September next, no person, either as owner or servant, shall use or employ, or be employed in, any boat or catamaran to carry passengers, goods, or letters, to or from any ship or vessel lying in the Madras Roads and shore, unless such owners or owner of boats and catamarans shall have previously received a license, and unless the boat or catamaran which such owners or owner, servants or servant shall so use, has been registered as hereinafter mentioned; and in case any person who has not received such license shall employ or be employed in a boat or catamaran for the purposes aforesaid, or such boat or catamaran shall not have been so registered, such person shall be liable to a fine not exceeding the sum of fifty rupees, on conviction before a justice of the peace, as that justice shall direct, and the boat or catamaran shall be liable to be seized by the orders of any justice of the peace and forfeited. Boats and catamarans to be licensed and registered; Penalty

II. And it is hereby enacted, that upon the master-attendant being satisfied that any such boat is of the proper dimensions and capacity, and that the same is seaworthy, and of a proper quality for the purposes aforesaid, and upon the application of the owner of any such boat or of any catamaran, and upon such owner delivering to him a written paper signed by such owner specifying his name, occupation, and place of residence, and the names and places of residence of all such boatmen or other per- Master-attendant to grant license on certain conditions

* The Governor in Council of Madras was authorized, by Act IX., 1846, to make similar regulations for all ports of the Madras Presidency.

sons as shall be employed by such owner in and about the navigation and management of such boat, as particularly as may be, and also subscribing to a declaration in writing, that he fully understands all the provisions of this Act, and those contained in the subsidiary rules to the same Act, it shall and may be lawful, and the said master-attendant is hereby required to grant to such owner a license so to use the same, in which license (if of a boat) shall be expressed the dimensions, the number of passengers, or the quantity of goods which such boat shall be permitted to take and carry, and every such license shall also contain a number for such boat or catamaran, and the name or names, occupation or occupations, and place or places of residence of the owner or owners thereof, and the number of the servants or crew who shall be used or employed to row or navigate the same, and their names and places of residence respectively, all of which particulars shall be entered in a book or registry for that purpose to be kept by the master-attendant; and so often as the property in any such boat or catamaran, or any share of the same, shall be transferred, every owner of such boat or catamaran shall produce his license before the said master-attendant, and such new owner shall also deliver to him a written paper signed by such new owner, specifying his name, occupation, and place of residence, and the names and places of residence of all such boatmen or other persons as he shall employ, or propose to employ, in and about the navigation and management of such boat, as particularly as may be, and shall also subscribe to a declaration in writing that he fully understands all the provisions of this Act, and those contained in the subsidiary rules to this Act, all which said particulars shall be duly entered by the said master-attendant in a new registry to be made by him of such boat or catamaran, and thereupon a new license to use such boat or catamaran, expressing and containing the same particulars as are hereinbefore provided to be expressed in the original license, shall be granted by the said master-attendant; and whenever any such owner or owners, or any of the boatmen or other persons employed to manage or navigate any such boat or catamaran, shall change his or their place of abode, notice of such change of abode shall be delivered to the said master-attendant by the said owner, in order that such new place of abode may be entered in the registry and license. In wilful neglect or default of which notice of change of ownership or of the persons employed to row or navigate any such boat, or of his or their or any or either of their change of residence, for the space of six days after any such change of residence, the owner shall forfeit a sum not exceeding fifty rupees, on conviction before a justice of the peace, as that justice shall direct; and for every such new registration to be made by the said master-attendant as aforesaid, he shall be entitled to charge, by way of fee, the sum of one rupee, and for every new license thereof the sum of one rupeee.

Contents of license.

Entry in register.

Sale of boats and catamarans and transfer of license, how to be effected.

Owners and boatmen to give notice of change of residence.

Penalties.

Fees for registration and license.

III. And it is hereby enacted, that in order to enable the said master-attendant to grant a correct license of the registry of every such boat previous to the registry of any boat requring such license, the said master-attendant, or his deputy, shall, in the presence of the owner of every such boat, or any other person duly appointed by such owner, cause each such boat to be surveyed and measured, and in case the same shall not, in the judgment of the said master-attendant or his deputy, be of the proper dimensions and capacity, and seaworthy, and of the proper quality for the

Boats to be surveyed and measured, and all defects rectified before license is granted.

purposes aforesaid, no registry shall be made nor license be granted until every such defect in the admeasurement, seaworthiness, and quality of the said boat shall have been rectified by the owner thereof; and for every such survey and admeasurement a fee of three rupees shall be paid by the owner of any such boat to the said master-attendant.

Fee for survey.

IV. And it is hereby enacted, that the said owner or owners of every such boat shall forthwith paint in black English figures, not less than six inches in length, upon a white ground, such white ground having a margin of at least three inches beyond the outermost part of the figures, on a conspicuous part of the bow on one side and of the quarter on the other, and in a legible and distinct manner from left to right, the number in such registry and license mentioned; and if any person shall fraudulently paint or counterfeit, or cause or permit to be painted or counterfeited, upon any boat, any figure not having been duly registered, every such person shall forfeit the sum of 100 rupees, and every such boat shall also be forfeited.

Number of boat in the registry to be painted on it.

Penalty for painting a false number.

V. And for the better prevention of fraud, or omission in the painting the figures hereinbefore provided to be painted on all boats let out for hire, as well as for the better distinguishing and identifying such boats and catamarans as have been registered and licensed, it is hereby enacted, that so often as any registry is made, the said master-attendant shall cause the number in the same to be cut or branded in the most common native characters, in some part or parts of every such boat and catamaran; and if the owner or owners of any such boat shall neglect or refuse to keep painted, cut, or branded any figure hereinbefore required to be painted, cut, or branded, on any such boat or catamaran, in a fair and legible condition, or if he shall paint, cut, or brand the same in a different manner or on a different part of such boat than is hereinbefore provided, or shall wilfully erase, obliterate, or in any way hide or conceal the same, or if the owner of any such boat or catamaran shall knowingly permit any such act to be done, he shall forfeit a sum not exceeding 100 rupees on conviction before a justice of the peace, as that justice shall direct; and if any person not being such owner shall be guilty of or shall assist in any such incorrect painting, cutting, branding, erasure, or concealment, he shall forfeit one moiety of the penalty in this article imposed.

Master-attendant to have the number cut or branded on the boat.

Penalty for neglecting to keep the number legible, or for wilfully erasing or concealing it.

VI. And it is hereby enacted, that every boat of the description and dimensions now in use, that is to say, not more than thirty-three feet in length, nine feet in breadth, and four feet four inches in depth, nor less than thirty feet in length, six feet in breadth, and three feet six inches in depth, which shall be so licensed and registered as aforesaid, shall be manned with not less than two steersmen, eight rowers, and one baler, and shall, if required, be obliged to carry at one time any number of passengers not exceeding fifteen, or any quantities of goods not exceeding the quantity mentioned in the Schedule (A) hereunder written; and in case boats of different construction and dimensions shall be licensed and registered, they shall be manned in such manner, and shall be obliged to carry such passengers or such a quantity of goods, as the master-attendant shall direct, and shall express in the license, under the penalty of fifty rupees.

Size of boats.

Number of crew, passengers, and weight of goods they may carry.

Penalty

Fines for carrying more than the proper number of passengers or weight of cargo.

VII. And it is hereby enacted, that if any boat be loaded with passengers or cargo beyond the number or quantity specified in the license granted to such boat, the tindal of such boat shall be liable to a fine not exceeding five rupees, on conviction before a justice of the peace, for every such surplus passenger and for every candy-weight of such cargo beyond such specified quantity; and the owner of such boat shall be liable to a fine of fifty rupees, on conviction before a justice of the peace, for every such surplus passenger or surplus candy-weight of cargo. And every person other than the tindal or owner, who shall be guilty, either as principal or accessary, of the like offence of overloading any boat, shall be liable to a fine of ten rupees, on conviction before a justice of the peace, for every such surplus passenger or surplus candy-weight of cargo.

Hours for quitting and returning to shore.

Master-attendant may hoist signal to prevent boats going out

Penalties.

VIII. And it is hereby enacted, that no boat or catamaran so licensed shall leave the shore before gunfire in the morning nor after 5 o'clock in the afternoon, nor shall remain alongside any ship or vessel after 6 o'clock in the afternoon, without leave from the master-attendant or his deputy, who shall be at liberty to prevent any boat or catamaran from putting off to or from the shore when in his judgment the doing so would be attended with danger, on which occasions the master-attendant shall hoist at the mast-head of his flag-staff the following flags, viz.: the white pendant with a red ball under a red and white chequered flag; and in case any person offend against this clause, he shall be liable, on conviction before a justice of the peace, to forfeit and pay a sum not greater than thirty rupees.

Annual inspection by Marine Board.

Master-attendant to inspect monthly or oftener.

Suspension and withdrawal of license in certain cases.

IX. And it is hereby enacted, that on the 15th day of December in every year the owners of boats and catamarans which shall have been so licensed and registered as aforesaid shall expose them and their crews on the beach for the inspection of the Marine Board; and the master-attendant shall once in every month or oftener, and as often as he may think necessary, require the owner of the said boats and catamarans, or any one or more of them, to expose them and their crews on the beach for his inspection; and in case any owner shall neglect or refuse so to expose a boat or catamaran belonging to him, and in case, on any boat or catamaran being so exposed, the master-attendant shall deem it unseaworthy, or that its crew is in an inefficient state, he shall suspend the license granted in respect thereof until the said boat or catamaran shall have been repaired and the crew rendered efficient, to the satisfaction of the master-attendant; and it is hereby declared, that in case the owner of any such boat or catamaran shall refuse or neglect to make such necessary repairs to the same and to render efficient the crew thereof, within one month after such inspection, the license shall altogether be withdrawn from such boat.

Where goods are to be landed.

X. And it is hereby enacted, that grain shall be landed within the space between the north angle of the Custom-house and Clive's Battery, and all other goods, excepting timber, shall be landed within the space between the north angle of the Custom-house and the south angle of Bentinck's Buildings, and that timber may be landed anywhere if the permission of the collector of sea customs be first obtained; and if such permission shall

not have been obtained, it shall be landed within the space between the north angle of the Custom-house and Clive's Battery; and in case any person shall land, or be engaged in attempting to land, any goods otherwise than as before directed, every such person shall be liable to pay, on conviction before a justice of the peace, a sum not greater than 100 rupees, as that justice of the peace shall determine.

Penalty.

XI. And it is hereby enacted, that all vessels, other than those commonly known as native vessels or donies, shall anchor in the south roads, the north angle of the fort being one point and the master-attendant's flag-staff the other; and all vessels commonly known as native vessels or donies shall anchor in the north roads, the north angle of the Custom-house being the southern and the village of Royapooram the northern point; and the owner of any licensed boat or catamaran, on holding (except at the request of the master-attendant) communication with a vessel which shall be anchored otherwise than as aforesaid, shall, on conviction thereof before a justice of the peace, be liable to pay a sum not greater than ten rupees, as such justice of the peace shall direct.

Where vessels are to anchor.

Penalty for communicating with vessels not in proper anchorage.

XII. And it is hereby enacted, that the owner or owners of all boats and catamarans kept for the purpose of being commonly let out for hire shall, when the same shall not be engaged in doing actual service for hire, by themselves or their agents, give daily attendance at the boat-office from 5 A.M. until 6 P.M., so as to be ready to provide upon immediate notice their boats or catamarans for service or hire, and that for any neglect in so giving attendance (unless occasioned by sufficient excuse), such owners shall be punishable by a justice of the peace, on conviction, by a fine not exceeding ten rupees.

Owners of boats or their agents to attend at boat-office during certain hours when not engaged.

Penalty.

XIII. And it is hereby enacted, that if any owner of a boat or catamaran so licensed, or any person deputed by him, shall demand a rate of hire beyond that which is sanctioned by Schedule (B) under the several circumstances and restrictions therein provided for, he shall, on conviction before a justice of the peace, forfeit the sum of ten rupees, together with the amount of such hire.

Penalty for demanding more than proper hire.

XIV. And it is hereby enacted, that any owner of a boat or catamaran so licensed; "and kept or employed for the purpose of being let out commonly on hire," or any person deputed by him, refusing to let on hire such boat or catamaran, for public or private use, and within the hours and in the terms specified in the Schedule (B) to this Act, without assigning such cause for his refusal as shall be deemed satisfactory or reasonable to the justice of the peace trying such offence, will, on conviction before a justice of the peace, be liable to the penalty of twenty rupees, and for a second refusal to a fine of 100 rupees, and to the forfeit of his license.

Penalty for refusing to let boats.

XV. And it is hereby enacted, that if any boatman or boatmen serving in any boat or catamaran kept and employed for the purpose of being let out commonly on hire to carry passengers, cargo, or letters, shall, by wilful neglect or desertion of his duty, cause any impediment to the service of

Punishment for wilful neglect or desertion of boatmen.

any such boat or catamaran, he or they shall for the first offence be liable to receive corporal punishment not exceeding three dozen lashes, on conviction before a justice of the peace, and if life shall have been thereby endangered, or in case of a second offence, he or they shall be committed to hard labour for a term not exceeding six months.

Boats to be kept for service during night by owners in rotation.

XVI. And it is hereby enacted, that the owners of boats and catamarans, which are kept or employed for the purpose of being commonly let out for hire, shall keep and provide for service during the night, that is to say, from six o'clock in the afternoon until six o'clock in the morning, at least ten boats and four catamarans with their respective crews, according to a course of rotation to be specified by the master-attendant on the first day of every current month, and to be notified in writing on some conspicuous part of his office as regards the particular nights for the attendance of particular boats and catamarans; and every owner of any such boat or catamaran who shall fail to provide his boat or catamaran, without assigning such excuse for such failure as shall be deemed satisfactory or reasonable to the justice of the peace trying such offence, shall, if the owner of a boat, on conviction before a justice of the peace, be liable to a penalty of twenty rupees, and for a second offence to the penalty of fifty rupees; and if the owner of a catamaran, be liable to the penalty of five rupees, and for a second offence to the penalty of ten rupees.

Penalties.

Boats to be kept seaworthy.

XVII. And it is hereby enacted, that every boat kept and employed for the purpose of being commonly let out for hire as aforesaid, shall be kept well and completely dunnaged and seaworthy, and in default thereof, the owner or owners of every such boat or boats shall, upon conviction before a justice of the peace, forfeit for each instance of neglect the sum of five rupees, and if any goods or cargo shall have received injury or damage thereby, the sum of twenty rupees, besides and over and above any legal liability to compensate such loss; and if life shall have been endangered thereby, a sum not exceeding 100 rupees, and also be liable, at the discretion of such justice, to have his license for such boat revoked.

Penalties.

Penalty for holding communication with ships before master-attendant's boat.

XVIII. And it is hereby enacted, that if any communication by boat or catamaran is held with any ship or vessel in the offing, or beyond the limits of the anchorage, before the master-attendant's report-boat or catamaran has boarded such ship or vessel, the owner of such boat or catamaran shall forfeit the sum of twenty rupees; and if any attempt is made to hold such a communication without the permission of the master-attendant, he will incur a penalty of ten rupees.

Search of boats and their crews for smuggled goods.

XIX. And it is hereby enacted, that it shall be lawful for the master-attendant or his deputy, the collector of sea customs or his deputy, and all sitting magistrates and qualified justices of the peace, or such person or persons as he or they shall by warrant under their hands duly authorize for that purpose, from time to time to go on board any boat or catamaran, and to search all parts of such boat or catamaran for prohibited or uncustomed or smuggled goods, and also to examine into all packages, boxes,

or baggage, of whatever description, within or upon such boat or catamaran, or landed therefrom, provided such master-attendant or his deputy, or other person to be appointed as aforesaid, shall have good reason to suppose that any such package, box, or baggage contains any smuggled or prohibited goods; and they shall likewise have power and authority to search any person or persons on board any such boat or catamaran, or who may have landed therefrom, provided such master-attendant or his deputy, or other person appointed as aforesaid, shall have good reason to suppose that such person or persons hath or have any uncustomed, smuggled, or prohibited goods secreted about his or her persons. Provided always, that no female shall be searched by any other person than a female duly authorized for that purpose by the collector of customs; and it is hereby further enacted, that if any person shall resist or impede any or either of the said parties hereinbefore authorized to go on board, examine, and search as hereinbefore provided, in the execution of their duty, or in any manner prevent the performance of such duty, every such person shall be liable, according to the circumstances of the case and the quality of the party offending, upon conviction before a justice of the peace, to a fine not exceeding 100 rupees, or to imprisonment, with or without hard labour on the roads or otherwise, for a period not exceeding six months; and in case any such offence be committed by any owner of a boat or catamaran, such owner shall likewise forfeit his license.

Search of females.

Punishment for resisting or impeding search.

XX. And it is hereby enacted, that the Sections III., IV., VII., VIII., IX., and X. of the Rule, Ordinance, and Regulation passed by the Governor in Council of Fort St. George, commonly called the Marine Police Regulation, be hereby cancelled and repealed.

Certain sections of the Marine Police Regulation rescinded.

XXI. And it is hereby enacted, that the jurisdiction and authority ordained to be exercised by the master-attendant and deputy master-attendant for the time being of the port of Madras, jointly or severally, as justices of the peace, by virtue of the hereinbefore recited Regulation, shall and may be exercised (as regards such parts of the said Regulations not hereinbefore repealed) by any justices of the peace in and for the Presidency of Madras in like manner, jointly or severally.

Powers of justices of the peace under the Marine Police Regulation.

XXII. And it is hereby further enacted, that every person whatever, who, either as owner or servant, shall use or employ, or be employed in, any boat or catamaran in the Madras Roads, shall be amenable to Sections XI., XII., and XIII. of the above-recited Regulation.

Owners of boats and their men subject to certain rules of Marine Police Regulation.

XXIII. And it is hereby further enacted, that Section XXXVI. of the above-recited Regulation shall hereafter apply to the fixing up at the offices therein mentioned, copies of the same, omitting all other notice of those sections thereof which are by this Act repealed, save that the same are so repealed.

Application of Section XXXVI. of the Marine Police Regulation.

XXIV. And it is hereby enacted, that all pecuniary forfeitures and penalties had or incurred under or against this Act shall and may be heard and determined by any justice of the peace of the town of Madras, who is hereby empowered and authorized to hear and determine the same, and

Penalties and forfeitures to be determined by justices of the peace.

to issue his summons or warrant for bringing the party or parties complained of before him the said justice, and upon his, her, or their appearance or contempt, and default, to hear the parties, examine witnesses, and to give judgment or sentence according as in and by this Act is directed; and it is hereby further declared, that it shall be lawful for any justice, who may have adjudged any pecuniary penalty under the provisions of this Act, to award and issue out a warrant or warrants under his or their hands and seals, for the paying of such forfeitures and penalties as may be imposed or adjudged, upon the goods and chattels of the offender, and cause sale to be made of the same, if they shall not be redeemed within six days, rendering to the party the overplus, if any, after deducting the amount of such forfeiture or penalty, and the costs and charges attending the levying thereof; and in case sufficient distress shall not be found, and such forfeitures and penalties shall not be forthwith paid, it shall and may be lawful for the justice, as last aforesaid, and he is hereby authorized and required, by warrant or warrants under his hand and seal, to cause such offender or offenders to be committed to prison, there to remain for any time not exceeding six months, unless such forfeitures and penalties, and all reasonable charges, shall be sooner paid and satisfied; and that all the said forfeitures, when paid and levied, shall, after deducting all necessary charges, and also a compensation not exceeding one-third, to be settled and ascertained by the said justice before whom the conviction may take place, and to be given to the officer or other persons giving information and prosecuting, to be applied and disposed of according to the directions of the Honourable the Governor in Council.

How they are to be levied.

Imprisonment for default of payment.

Disposal of penalties.

SCHEDULE (A).

Schedule of Articles composing a Boat-load

I. Goods taken by Weight or Measurement.

These Articles are computed at Two Tons to a Boat-load.

Articles	Packages	Fair Weather	Foul Weather or High Surf	Remarks
Benjamin	boxes	25	20	small.
	bundles	60		
	chests	12		half.
Biscuits	bags	30		
Boat Oars	No.	100		
Boots and Shoes	cases	8	6	small
		6	4	large.
Butts	No.	3	2	
Broad Cloth	bales	8	6	large
		10	8	middling.
		12	10	small.
Button	cases	6	4	
Beef	tierces	8		
	hogsheads	6		
Carriage	No.	1		
Cotton screwed	bales	8		of 300 lbs.
		10		250 ,,
		12		150 ,,
Ditto loose	bags	16		
Codjoor Nuts	bundles	10	8	
Cocoanuts	No.	1,000		with husk.
		1,500		without ditto.
	bags	25		small.
		20		large.
Chests	No	4	3	12 dozen.
Ditto half	No.	8	6	6 ditto.
Canvas	bales	4	3	20 bolts each.
Clothing	bales	8	6	3 corges each.
		10	8	2 do. do.
		12	10	1 do. do.
Cheacoy	bundles	20	15	
Chillies	ditto	20	15	
Choya Root	ditto	6	..	large.
		8	..	small.
Cochineal	boxes	12	10	
Cinnamon	bags	35	30	
Camphire	boxes	12		
Cloves	bags	40		80 lb weight each bag.
Curry Stuff Seeds	bags	25	20	Ramisapatam bags
Dates	bags	35	25	when from Bombay.
Ditto	tons	2	1½	when the packages are various.
Drugs	bags	12	10	
Eating Leaves	bundles	40		

Articles.	Packages.	Fair Weather.	Foul Weather or High Surf.	Remarks.
Flour	casks	8	6	
Grain — Ramiapatam	bags	20	.....	shipping.
		25	.....	landing.
Grain — Bengal	bags	25	.....	shipping.
		30	25	landing.
Glass Ware	chests	6	.....	whole.
		12	.....	half.
Gunny	bundles	6	.....	large.
		12	.....	small.
Gunpowder	barrels	25	.....	100 lbs. each.
		30	.....	60 do. do.
Gallingale	bundles	25		
Gin	cases	30		
Gun Carriage	No.	1	.....	complete with wheels, from 3 to 24 pounders.
Ginger Dry	bags	30		
Hay	bales	8	6	
Horns	No.	1,000		
Hogsheads	No.	6	4	
Hams	No.	120		
Indigo	chests	8	.....	whole.
		12	.....	half.
Leaguers	No.	2		
Nankeen	boxes	20		
Nuts	bags	30		
Pickle, Europe	boxes	30	20	
Palanquin	No.	1		
Piece Goods	bales	6	.....	large 3 and small 4 } bales for China.
		8	.....	
Pumpkins	No.	100	.....	large.
		250	.....	small.
Puncheons	No.	4	3	
Pipes	No.	3	2	
Ditto half	No.	6	4	
Pork	tierces	8		
	casks	8	6	
Pepper	bags	35	25	
Rafts — Artees	No.	12	10	large.
		20	.....	small.
Rafts — Bindoo Plank	No.	25		
Rafts — Chittagong do.	No.	25	20	
Rafts — Duggies	No.	1	.....	large } shipping.
		2	.....	small }
		8	.....	large } landing.
		12	.....	small }
Rafts — Mango do.	No.	20	.....	landing.
		10	.....	shipping.
Rafts — Shinbeams	No.	20	.....	landing.
		8	.....	shipping.
Rafts — Spars	No.	1	.....	large.
		4	.....	small.
Rattans	No.	250	.....	100 in a bundle.
		500	.....	50 in do.
Reapers	No.	60	.....	10 in do.
Saddlery	cases	8	6	
Shark's Fins	bundles	3		
Sheathing Boards	No.	100	.....	double.
		150	.....	single.

Articles.	Packages.	Fair Weather.	Foul Weather or High Surf.	Remarks.
Soap Nut	bags	30		
Spices of all sorts	bags	10	.....	large.
		20	.....	small.
Stationery	cases	6	4	
Staves	packs	20		
Stick Lac	bags	30		
	bundles	40		
Sugar	casks	4		
Ditto	lumps	50	.....	large.
		70	.....	small.
Ditto of Batavia	canisters	6		
Ditto of Bengal	bags	20		
Ditto ditto	chests	6		
Ditto China	small packages	40		
Sugar Candy	tubs	25		
Ditto ditto	half do.	50		
Tents	sets	6	.....	private two-poled tents.
Tamarind	bags	15		
Ditto Bengal	bags	20		
Thread	bundles	7	6	
Tobacco	bags	30		

II. Dead Weight.

Computed at One and a Half Ton per Boat-load.

Anchor	No.	1	.....	of 12 cwt. small anchors and grapnels in like proportion.
Arms	chests	12	.....	12 muskets each.
Black Wood	candies	6	.....	shipping.
		7	.....	landing.
Copper, Sheet	chests	6	4	
	cases	4	3	
	slabs	100	80	large.
Guns, Iron or Brass	No.	3	.....	3-pounders.
		2	.....	4 or 6 ditto.
		1	.....	9 ditto.
Japan	chests	10	8	
Metals of all kinds	tons	1½		
Nails	tons	1½		
Red Lead	tons	1½		
Red Wood	tons	1½		
Sandal-wood	tons	1½		
Salt	bags	25		
Saltpetre	bags	25		
Shells	No.	20	.....	13 inches.
		100	.....	10 or 8 do.
		250	.....	5½ do.
		300	.....	4½ do.
Shot	No.	150	.....	24-pounders.
		200	.....	18 do.
		300	.....	12 do.
		400	.....	9 do.
		500	.....	6 do.
Treasure	boxes	6	4	

III. Miscellaneous Articles.

Articles.	Packages.	Fair Weather.	Foul Weather or High Surf.	Remarks.
Bullocks	No.	2		
Coals	tons	2	1½	
Cow and Calf	No.	1		
Fire-wood. Ramiapatam	500	.....	.....	large.
	1,000	.....	.....	small.
Candarungum	600			
Checurucottah	2,000			
Alumbarary	2,000			
Kistnapatam	1,000			
Alepanum	150			
Cuddalore	1,500			
Acheedandoo	2,000			
Rangoon	2,000			
Ghee and Oil	dubbers	25		
Horse	No.	1		
Linseed Oil	jars	20		
Loose Oakum	whatever quantity can be stowed conveniently.			
Pecul weights of all kinds	peculs	30	25	
Pigs	No.	15		
Ponies	No.	2		
Poultry	baskets, any quantity that can be stowed conveniently.			
Sand Ballast	tons	2	1½	
Seed Cocoanut	No.	200		
Sheep	No.	30		
Tar	barrels	8	6	
Tarpaulin	No.	30		

The Number of Passengers composing a Boat-load:

Europeans ..... 12 persons.
Natives ..... 15 ,,

N.B. Two children are to be considered equal to one grown-up person.

SCHEDULE (B).

Maximum Rate of Boat and Catamaran Hire.

Accommodation Boats.		Rs.	A.	P.
Ordinary Trip, South or North Road	per trip	3	8	0
Extra hire in and beyond 9 fathoms	ditto	1	8	0
Foul Weather Trip	ditto	6	0	0
Transhipment	ditto	1	0	0

Common Boats.		South Road.			North Road.		
		Rs.	A.	P.	Rs.	A.	P.
Ordinary Trip	per trip	1	8	0	0	15	0
Ballast ditto	ditto	1	10	0	1	0	0
Ballast in and beyond 9 fathoms	ditto	2	10	0	2	0	0
Return Trip	ditto	0	12	0	0	8	0
Return Trip in and beyond 9 fathoms	ditto	1	8	0	0	15	0
Water Ordinary Trip	ditto	3	8	0	3	0	0
Water in and beyond 9 fathoms	ditto	4	3	0	3	2	6
Trip in and beyond 9 fathoms	ditto	2	12	0	2	2	0
Transhipment	ditto	0	15	0	0	15	0
Transhipment in and beyond 9 fathoms	ditto	1	14	3	1	14	3
Foul in and beyond 9 fathoms	ditto	4	3	0	3	2	6

		Rs.	A.	P.
Small Catamaran.				
Ordinary Trip, South or North Road	per trip	0	5	0
Foul Weather, in or beyond 9 fathoms	ditto	0	10	0
Catamaran for rafting Timber	per day	1	0	0
Large Catamaran Hire.				
For Landing or Shipping an Europe Cable of 13 to 16 inches		18	12	0
For ditto of 17 to 22 inches		28	8	0
For Shipping Chain Cables	per trip	18	12	0
For ditto an anchor from 14 to 29 cwt.		18	12	0
For ditto an Anchor from 30 to 50 cwt.		28	12	0
For making a Rope fast to an Anchor under 12 cwt.		10	0	0
For ditto ditto above 12 and under 20 cwt.		20	0	0
For ditto ditto above 20 cwt.		35	0	0
Tarpaulin.				
Per Trip		0	4	0
Water-Casks.				
Per Trip (4 casks)		0	9	5

Extra Hire in addition to the regulated Charges for Boats and Catamarans.	Accommodation Boat.			Common Boat.			Catamaran.		
	Rs.	A.	P.	Rs.	A.	P.	Rs.	A.	P.
South Road Trips between 6 and 8 P.M.	1	12	0	0	12	0	0	2	6
North Road Trips ditto ditto	1	12	0	0	7	6	0	2	6
South Road Trips between 8 P.M. and 5 A.M.	3	8	0	1	8	0	0	5	0
North Road Trips ditto ditto	3	8	0	0	15	0	0	5	0
Boats or Catamarans detained alongside, for every three hours during the day or night	3	8	0	1	8	0	0	5	0
Boats or Catamarans employed between the Commissariat Granary and Parry and Co.'s Office	0	14	0	0	6	0	0	1	3
Ditto between Parry and Co.'s and the Tunnel	1	12	0	0	12	0	0	2	6
Ditto between the Tunnel and the Sea Gate	2	5	4	1	0	0	0	3	4
Ditto between the Sea Gate and the Marine Villa	4	10	8	2	0	0	0	6	8
Ditto between Marine Villa and Adyar	7	0	0	3	0	0	0	10	0
Ditto North of Royapooram	1	12	0	0	9	6	0	2	6
Ditto Trivatoor and Ennore	10	8	0	3	9	0	0	15	0
Beyond the Limits of the Anchorage	1	8	0	1	8	0	0	5	0
Boats employed on Sundays	1	8	0	0	9	0	0	2	0

N B. The ordinary period within which Boats and Catamarans shall be let on hire shall be between sunrise and sunset.

A.D. 1842. ACT VIII.

AN ACT *for describing in Legislative Acts, with greater Certainty and Convenience, the Courts of the Highest Jurisdiction in the respective Presidencies:* PASSED *by the Honourable the President of the Council of India in Council, on the 2nd of September,* 1842, *with the Assent of the Right Honourable the Governor-General of India.*

Extension of Acts XIX. and XX., 1841, to Madras. Highest Civil and Criminal Court to be styled "SUDDER COURT."

IT is hereby declared and enacted, that the powers vested in the Court of Sudder Dewanny Adawlut by Acts No. XIX. of 1841 and No. XX. of 1841 shall be applicable to the courts of highest civil jurisdiction in the Madras and Bombay Presidencies respectively, and that, in future Acts generally applicable to all the Presidencies, the terms "Sudder Court" shall be deemed applicable to the courts respectively of the highest civil and criminal jurisdiction, as the case may be, of all the Presidencies.

A.D. 1842. ACT XI.

AN ACT *for amending and explaining the Law concerning the Importation of Foreign Sugar:* PASSED *by the Honourable the President of the Council of India in Council, on the 21st October,* 1842, *with the Assent of the Right Honourable the Governor-General of India.*

Penalties for landing foreign sugar, extended to importation otherwise.

IT is hereby enacted and declared, that the prohibition and penalties contained in Acts No. XXXII. of 1836 and No. XV. of 1839, against the landing or attempting to land, in any part of the territories subject to the Presidency of Fort William in Bengal, or the Presidency of Fort St. George, of any foreign sugar, or any sugar which is the growth of any British possession into which foreign sugar can be legally imported, shall apply and be deemed to apply to such sugar otherwise imported into any part of the territories subject to the said Presidencies.

A.D. 1842. ACT XII.

AN ACT *for the better Regulation of Military Bazars, and defining the Liabilities of Camp-followers:* PASSED *by the Honourable the President of the Council of India in Council, on the 28th of October,* 1842, *with the Assent of the Right Honourable the Governor-General of India.*

No unregistered person shall recover in the Military Courts of Requests.

I. IT is hereby enacted, that no person residing within the limits of any military cantonment and carrying on trade therein, or who shall have been

a trader at any military cantonment, shall be allowed to recover in any Military Court of Requests for the native troops of the East-India Company, held within any such cantonment, any debt contracted in the way of trade, or for the loan of money, within any such cantonment, by any person subject to the jurisdiction of such Court, unless the person seeking to recover the debt shall, at the time of contracting thereof, have been registered as a military bazarman within any such cantonment.

All camp-followers amenable to Acts XI. and XXVIII., 1841.

II. And it is hereby declared, that all persons serving with any part of the army and receiving public pay in any capacity, menial servants, and other camp-followers of every description, shall be subject to the provisions of Acts No. XI. of 1841 and No. XXVIII. of 1841, in like manner as enlisted soldiers.

A.D. 1842. ACT XV.

AN ACT *for regulating the Emigration of the Native Inhabitants of the Territories under the Government of the East-India Company to the Island of Mauritius:* PASSED *by the Honourable the President of the Council of India in Council, on the 2nd of December,* 1842, *with the Assent of the Right Honourable the Governor-General of India.*

Promulgation of Her Majesty's Order in Council, and the schedule thereto annexed.

I. WHEREAS it hath been ordered by the Queen's Most Excellent Majesty, by and with the advice of Her Majesty's Privy Council, as follows:—

AT THE COURT AT WINDSOR,

The 15th of January, 1842.

Present:

THE QUEEN'S MOST EXCELLENT MAJESTY.

HIS ROYAL HIGHNESS PRINCE ALBERT.

Lord President.	Lord Stanley.
Lord Privy Seal.	Lord Fitzgerald and Vesci.
Lord Steward.	Sir Robert Peel, Bart.
Lord Chamberlain.	Mr. Chancellor of the Exchequer.
Earl of Jersey.	Sir James Graham, Bart.
Earl of Ripon.	Sir Edward Knatchbull, Bart.

Her Majesty's Order in Council, 15th January, 1842.

Whereas it is probable that the laws now in force in British India for preventing the emigration of the inhabitants thereof to Her Majesty's colonial possessions will be shortly repealed, so far as regards emigration to the island of Mauritius, and that such last-mentioned emigration will be sanctioned by laws to be for that purpose enacted in India, subject to various provisions to be in such laws made for the protection of such

* Limited to Bengal by Act XXI., 1843, but extended to Madras by Act VIII., 1847.

emigrants, and for the prevention of abuses: And whereas it is probable that amongst the provisions so to be made, as last aforesaid, will be a provision for enabling the Governor-General of India to appoint at ports or places in India, officers charged with the care, protection, and superintendence of all persons proposing to emigrate as labourers from India to Mauritius: And whereas it is probable that provision will be made by law at Mauritius for defraying from the public revenue of that island the expense of introducing emigration thither from British India: And whereas it is necessary that effectual provision should be made by law at Mauritius for regulating any such expenditure, and for the prevention of abuses in the introduction of emigrants from British India into that island,—It is therefore hereby ordered by the Queen's Most Excellent Majesty, by and with the advice of Her Majesty's Privy Council, that in the event of any law being made in British India, authorizing the emigration to Mauritius of the natives of India, and repealing the restrictions now in force there in regard to such emigrations, and in the event of any such laws containing provisions enabling the Governor-General of India to appoint at the several ports of embarkation in India, officers charged with the protection of persons emigrating from such ports to Mauritius, the various rules and regulations comprised, and set forth in the Schedule to this present order subjoined, shall within the island of Mauritius have the force and effect of law, and shall be observed and carried into effect by all Her Majesty's officers, civil and military, in Mauritius, and by all Her Majesty's subjects within the same island, as to them may respectively appertain.

And the Right Honourable Lord Stanley, one of her Majesty's Principal Secretaries of State, is to give the necessary instructions herein accordingly.

(Signed) C. GREVILLE.

SCHEDULE.

THE SCHEDULE *referred to in the preceding Order, comprising the Rules and Regulations to be observed at Mauritius in regard to Emigrants from British India, resorting to and arriving at that Island.*

First. The governor of Mauritius may, from time to time, nominate such persons as he shall see fit to act as emigration agents at any port or place in India, which the Governor-General of India may designate as a port or place for the embarkation of emigrants to Mauritius, and may also, from time to time, nominate a proper person to act as protector of immigrants at Mauritius.

Second. The remuneration to be given to any such agent in India shall not depend upon or be regulated by the number of the emigrants sent to Mauritius by him, but shall be in the nature of an annual salary.

Third. Every such emigration agent shall ascertain by personal communication with every emigrant, previously to his or her embarkation from the port or place for which such agent shall be appointed, that such emigrant has not been induced to emigrate by any fraud, false nor unreasonable expectation, and is aware of the distance of Mauritius from the place where he or she is about to emigrate; and such agent shall explain the real advantages likely to be derived by such emigrants from a removal to Mauritius, and, at the same time, cautioning such emigrant against unreasonable and unwarrantable expectations; and such agent shall also ascertain

that every such emigrant is in good health, and not incapacitated from labour by old age, bodily infirmity, or disease.

Fourth. It shall not be lawful to ship on board of any ship or vessel carrying emigrants from India to Mauritius, any number of passengers exceeding the proportion of one person for every two tons of the registered burthen of such ship or vessel; and no such ship or vessel carrying emigrants, and having more than one deck, shall have less than the height of six feet at the least between decks; and in case such ship or vessel shall have only one deck, a platform shall be laid beneath such deck, and in such manner as to afford a space of the height of six feet at the least, and that such platform shall not be so laid as that the lower beams shall project above the same; and that no such ship or vessel shall have more than two tiers of berths; and that no such ship or vessel shall carry passengers on any such voyage to Mauritius unless there be an interval of six inches at least between the deck or platform, and the floor of the lower tier throughout the whole extent thereof; and whatever may be the tonnage of the ship or vessel, no greater number of passengers shall be taken on board of such ship or vessel than shall be after the rate of one such person for every twelve superficial feet of the lower deck or platform, unoccupied by goods or stores, not being the personal luggage of such persons.

Fifth. In the computation of the number of passengers within the meaning of these Regulations, two children under the age of ten years shall be considered as equal to, and shall be reckoned as, one person only.

Sixth. There shall be actually laden and on board of every ship or vessel bringing emigrants into Mauritius, at the time of departure of such ship or vessel from the port or place at which such labourers shall be embarked, good and wholesome provisions for the use and consumption of the said passengers, over and above the victualling of the crew, to the amount or in the proportion following; that is to say, a supply of water to the amount of five gallons to every week of the computed voyage for every passenger on board such ship or vessel, such water being carried in tanks or sweet casks; and a supply of rice, bread, biscuit, flour, oatmeal, or bread stuffs, to the amount of seven pounds' weight to every week of the computed voyage for every such passenger. Provided always, that when any such ship or vessel shall be destined to call at a port or place in the course of her voyage for the purpose of filling up her water-casks, a supply of water at the rate before mentioned for every week of an average voyage to such port or place of calling shall be deemed to be a compliance with this regulation. And provided that the preceding regulation regarding food shall be deemed to have been complied with in any case where it shall be made to appear that, by the special authority of the Governor-General of India, any other articles of food were substituted for the articles above enumerated as being in his judgment equivalent thereto.

Seventh. The number of weeks which shall be deemed necessary for the voyage to Mauritius from any port or ports in India shall be such as shall from time to time be determined by any law or ordinance to be promulgated for that purpose by the Governor-General of India in Council, and according to any such law or ordinance, shall and may be further determined whether at different periods of the year different estimations are to be made of the probable length of any such voyage; and if by any such

law or ordinance the removal of emigrants should during any particular period of the year be prohibited altogether, then any such removal during such prohibited period shall in Mauritius be regarded, dealt with, and punished as an infringement of these present regulations.

Eighth. Before any such ship or vessel shall be cleared out on any such voyage, the agent appointed under this ordinance for the port or place from which such ship or vessel shall be cleared out shall survey, or cause to be surveyed, by some competent person, the provisions and water hereinbefore required to be on board for the consumption of passengers, and shall ascertain that the same are in good and sweet condition, and also that over and above the same, there is on board an ample supply of water and stores for the victualling of the crew of the ship or vessel, and shall also ascertain that such ship or vessel is generally reputed seaworthy, and that the directions hereinbefore contained for insuring the health and safety of the passengers have been complied with, and shall grant a certificate thereof under his hand to the master of such ship or vessel.

Ninth. The master of every ship or vessel bringing emigrants to Mauritius shall be bound to provide for, and furnish to, every such emigrant and his wife and children a sufficient quantity of good and wholesome provisions, for his, her, and their daily maintenance during such voyage, and during the space of forty-eight hours next after the arrival of such ship or vessel in Mauritius.

Tenth. Two copies of these regulations, authenticated by the signature of the agent at the port or place from which such emigrants shall come, shall be delivered to the master by such agent on demand at the time of clearance, and shall be kept on board of every ship or vessel carrying such emigrants as aforesaid, and one of such copies shall, upon request made at seasonable times to the master of the ship or vessel, be produced to any passenger for his perusal.

Eleventh. The master of every ship or vessel carrying emigrants from India to Mauritius shall, before clearing out such ship or vessel, deliver to such agent at the port or place from which such vessel shall be cleared out, a list in writing, together with a duplicate of the same, specifying as accurately as may be, the names, ages, and occupations of all and every the emigrants on board such ship or vessel, and such agent shall thereupon deliver to the said master the counterpart of such lists, signed by such agent; and the said master shall, on the arrival of such ship or vessel at Mauritius, and previous to the disembarkation of any such emigrants, give notice of the arrival of such ship or vessel, and deliver the said counterpart of such list to the protector of immigrants hereinbefore mentioned. And such protector of immigrants shall forthwith proceed on board of such ship or vessel, and shall ascertain as far as possible, by personal inspection of the ship or vessel and passengers, whether the directions hereinbefore contained with regard to the situation of the berth of such ship or vessel, the proportion of the passengers to the burthens and measurement of such ship or vessel, and the maintenance of the emigrants during such passage, have been complied with; and such protector of immigrants shall personally muster such emigrants, and compare the number and names of such emigrants with the said counterparts of such lists, and shall certify in writing under his hand upon such counterpart the total number of emigrants then living and being on board of such vessel; and in case any

such emigrant shall have died during the passage, or the number of names of the emigrants shall differ from the number of names stated in such counterpart, the protector of immigrants shall note such death or difference upon such counterpart, and thereupon shall grant a license under his hand for the disembarkation and landing of such emigrants.

Twelfth. If the protector of immigrants, on such personal inspection of the ship or vessel and emigrants, shall be satisfied that the preceding regulations have been complied with, he shall grant a certificate under his hand of the arrival in Mauritius of such emigrants respectively, and the place from which, and the ship or vessel in which, such emigrants shall have arrived.

Thirteenth. No money shall be payable by the colonial treasurer of Mauritius in respect of any such emigrants as aforesaid, except on the warrant of the governor of that island, which warrant shall not be issued except on such certificate as aforesaid of the said protector of immigrants.

Fourteenth. The protector of immigrants shall keep a register of all persons in respect of whom any such certificate as aforesaid shall be granted, and of the ship or vessel in which, the port from which, and the time at which, such person shall have arrived in this colony, a copy of which registry shall be laid before the Council of Government on the 31st day of March, the 30th of June, the 30th day of September, and the 31st of December in each year.

Fifteenth. If any ship or vessel bringing emigrants from India to Mauritius shall carry any number of passengers exceeding the proportion authorized and allowed by these regulations, a penalty of five pounds per head shall be payable in respect of each passenger so carried in excess of such proportion; or if such ship or vessel shall not be of the height between decks hereinbefore required; or if such a platform as hereinbefore directed shall not be laid and continued throughout the whole duration of any such voyage, in such manner as is hereinbefore required; or if there shall be more than two tiers of berths; or if there shall not be throughout the whole duration of any such voyage, such an interval as is hereinbefore prescribed between the deck and the floor of the lower tier of berths; or if any such ship or vessel shall clear out, and put to sea not having on board such water and provisions as aforesaid for the use and consumption of the passengers, of the kind, and to the amount, and in the proportion hereinbefore directed; or if any such ship or vessel shall be cleared out before such lists of emigrants shall have been delivered in manner and form aforesaid; or if any such lists shall be wilfully false; or if the copy of these regulations be not produced as hereinbefore required; or if any emigrant shall not be maintained during such voyage, and for forty-eight hours after his arrival,—the master of any such ship or vessel shall, for and in respect of each and every such offence, be liable, on summary conviction before any stipendiary magistrate, at any time within the space of twelve calendar months next after the arrival of such master within the colony of Mauritius, to the payment of a fine not less than £5, nor more than £20 British sterling; and in default of payment of the fine above mentioned, either immediately, or at the time fixed by such stipendiary magistrate at the time of making such conviction, to imprisonment for any time not less than one, or more than three, calendar months.

Sixteenth. Provided, nevertheless, that nothing herein contained shall take away or abridge any right of suit or action which may accrue to any emigrant in any such ship or vessel, or to any other person, in respect of the breach or non-performance of any contract made or entered into between, or on the behalf of, any such emigrant or other person, and the master, owner or owners of any such ship or vessel.

Seventeenth. Provided always, that nothing in these regulations contained shall apply to any ship or vessel in the service of the Lords Commissioners of the Admiralty, or to any of Her Majesty's ships of war.

Eighteenth. No emigrant arriving from India at Mauritius shall be capable of entering into any contract of service to be performed in that island, until he shall have been at least forty-eight hours on shore there, and every such contract of service made before that time shall be null and void to all intents and purposes.

Nineteenth. No emigrant arriving from India at Mauritius, and engaging to labour in that island, shall within Mauritius be liable to any action, suit, or demand, for or in respect of any debt contracted, or any contract made by such emigrant before his arrival in the said island.

Twentieth. No emigrant arriving from India at Mauritius shall in Mauritius be capable of entering into any contract for service except for the period, in the manner, and under the superintendence which, by a law in force there, is required in the case of contracts for service made by other labourers in agriculture or manufactures within the said island.

Twenty-first. No payment shall be made from the treasury of the said island in respect of any emigrants introduced there from India, unless on proof, to the satisfaction of the governor of Mauritius, that all rules and regulations which may be established by law in India, for the advantage and protection of such emigrants, have been duly complied with, such rules and regulations not being repugnant to any thing in these regulations contained.

Twenty-second. In every case in which the penalties hereby denounced against offences are imposed by the use of the words in the masculine gender, or in the singular person, such words shall be understood as extending to the feminine gender also, and to any number of persons, unless when the opposite construction is required in order to meet the object and to accomplish the ends with a view to which these regulations are established and made.

(Signed) C. GREVILLE.

In conformity with which said order, and for the purpose of giving effect thereto, it is hereby enacted, that Act No. XIV. of 1839, and all Acts repealed thereby, so far as the same are applicable to the emigration of natives from the ports of Calcutta, Madras, and Bombay respectively, to the Mauritius, shall be repealed from the day when the Governor-General of India in Council, or, in his absence, the President in Council, shall notify in the Gazette that it hath been duly certified to him that such regulations have been provided, and that such measures have been taken by the Government of Mauritius, as he may deem necessary for the protection of emigrant labourers from India on their passage to the Mauritius, and during their residence there, and for their safe return at the expiration

of five years, or any subsequent period, should they be desirous of returning to India. Provided always, that the aforesaid Act No. XIV. of 1839 shall remain in full force in all the ports of India except the ports aforesaid, and in regard to emigrants from India proceeding to other place than the Mauritius.

Native labourers may emigrate to the Mauritius from Calcutta, Madras, and Bombay.

II. And it is hereby enacted, that after this Act shall come into operation, emigrant labourers, being native inhabitants of the territories under the Government of the East-India Company, shall be allowed to pass and to be conveyed from India to the Mauritius from the ports of Calcutta, Madras, and Bombay respectively, in compliance with the provisions hereinafter mentioned, but not otherwise.

Mauritius emigrant agents may be authorized to act at each Presidency.

III. And it is hereby enacted, that at each of the three ports aforesaid, it shall be lawful for the Government of the Presidency within which the port is situated, to authorize the persons nominated by the Government of Mauritius, under the order hereinbefore inserted, to act as emigration agents at the aforesaid ports respectively, and to exercise the powers conferred on emigration agents by this Act. And every such emigration agent shall make monthly reports to the Government to which he is subordinate, of all matters transacted by him in pursuance of this Act.

Emigrant ships to be licensed.

Fee for license.

Master of ship to execute bond.

Penalty for breach of conditions.

IV. And it is hereby enacted, that it shall not be lawful to convey any emigrant, being a native of India, who may embark for the purpose of labouring for hire in the colony of Mauritius from either of the ports aforesaid, in any ship or vessel, unless a license be obtained for carrying emigrants in such ship or vessel from the Government of the Presidency in which the port is situated. A fee not exceeding one rupee per emigrant, as may be regulated from time to time by the local Government, shall be demandable in respect of every such license, which fee shall be carried to the credit of the said Government; and the granting or withholding any such license shall be entirely discretionary with the Government; and in consideration of such license, the master of every ship conveying, or destined to convey, emigrants from India shall execute a bond, binding himself and his owners in a penal sum of 10,000 rupees, to conform to the several conditions hereunder provided, and the said bond shall be executed in duplicate, that it may be put in suit either at the place of execution or in the colony of Mauritius, and one copy shall be forwarded to the Government of Mauritius to be dealt with as the case may require. And every ship or vessel in which any such emigrant shall be conveyed without a license being obtained as aforesaid, shall be liable to be forfeited, and the master thereof shall be liable as for a misdemeanor in a fine of 1,000 rupees for every such emigrant so illegally conveyed.

Emigrants to have certificate.

V. And it is hereby enacted, that it shall not be lawful for the master of any vessel licensed as above to receive on board any emigrant labourer as above provided, unless such labourer shall have in his possession, and show a certificate or pass to be given to him by the emigration agent of the port, stating his name and the name of his father, and his age, and certifying that, having appeared before such agent, he has declared his

willingness and desire to proceed to work for hire in the said colony of Mauritius.

Master of emigration ship to have certificate from emigration agent.

VI. And it is hereby enacted, that before any ship or vessel, so licensed to carry emigrant labourers as above provided, shall be cleared out from any of the aforesaid ports for the Mauritius, it shall be necessary for the master of such ship or vessel, provided any emigrant of the description aforesaid shall embark therein, to obtain from the emigration agent so nominated and authorized at such port as aforesaid, a certificate under the hand of such agent to the effect following; that is to say—

First. That such agent has, by personal communication, done what is required on the part of such agent by the Third Article of the Schedule hereinbefore inserted. Provided always, that every such agent shall make the inquiries specified in such Schedule, in an open court or public office to which all persons shall have admission.

Second. That all the directions contained in the Fourth, Fifth, Sixth, and Eighth Articles of the Schedule hereinbefore inserted for insuring the health and safety of passengers have been duly complied with.

Third. That (in addition to the directions contained in the said Schedule) such rules have been complied with as the Governor-General in Council, or in his absence, the President in Council, shall, from time to time, frame, touching the medical attendance and medical stores to be provided, the species of provisions suited to native habits, the number of women that should accompany the emigrants, or other matters.

Probable length of voyages.

VII. And it is hereby enacted, that with reference to Article Seven of the Schedule hereinbefore inserted, the probable lengths of a voyage to the Mauritius from the respective ports aforesaid, shall, for the purposes of this Act, be deemed to be, for the port of Calcutta,

Between the months of April and October inclusive, ten weeks.

Between the months of November and March inclusive, eight weeks.

For the port of Madras, between the months of April and October inclusive, seven weeks; and between the months of November and March inclusive, five weeks.

For the port of Bombay, between the months of April to September inclusive, five weeks; and between the months of October to March inclusive, six weeks.

Master to deliver list to emigrant agent.

VIII. And it is hereby enacted, that before any ship or vessel shall be cleared out from any of the aforesaid ports for the Mauritius, it shall be necessary for the master thereof to deliver to the emigration agent, so nominated and authorized at such port as aforesaid, the list specified in Article Eleven of the Schedule hereinbefore inserted, and to obtain such duplicate thereof as is required by the said Article.

Penalty for clearing ship without observance of above rules.

IX. And it is hereby enacted, that if the master of any ship or vessel shall, at any of the ports aforesaid, take on board such ship or vessel any emigrant labourer of the description aforesaid, and shall clear such ship or vessel for the Mauritius without having fully complied with every particular hereinbefore required previous to clearance, he shall be liable, on conviction before any magistrate or justice of the peace, in a penalty of

200 rupees for every emigrant labourer so taken on board his ship or vessel.

Penalty for taking emigrants without entry in list before clearance.

X. And it is hereby enacted, that if the master of any ship or vessel shall, after having cleared such ship or vessel at any such port as aforesaid for the Mauritius, take on board any such emigrant labourer as aforesaid, without having entered such emigrant labourer in such list as aforesaid, or without having obtained such duplicate as aforesaid, containing the entry of such emigrant, prior to clearance, he shall be liable, on conviction, before any magistrate or justice of the peace, in a penalty not exceeding 500 rupees for every emigrant so taken on board his ship or vessel.

Penalty for acts fraudulently vitiating the certificate.

XI. And it is hereby enacted, that if any master of any ship or vessel cleared for the Mauritius as aforesaid, shall, after having obtained such certificate as aforesaid, fraudulently do or suffer to be done any act or thing whereby such certificate shall become inapplicable to the altered state of the ship or vessel, its passengers, or other matters to which such certificate relates, such master shall be liable, on conviction, in any penalty not exceeding 5,000 rupees, besides incurring a forfeiture of any bond executed in consideration of any license obtained for the vessel as originally described.

Custom-house officers and pilots may search and detain for purposes of this Act.

XII. And it is hereby enacted, for the greater security against emigrant labourers being embarked for the Mauritius contrary to the provisions of this Act, that all the powers vested by law in the officers of customs, in regard to the searching and detention of ships or vessels or otherwise for the prevention of smuggling on board thereof, may be exercised by such officers for the prevention of the illegal embarkation of such emigrants as aforesaid on board ships or vessels bound for the Mauritius, and of other offences against this Act. And it is further enacted, that all pilots in the service of the East-India Company shall be invested with the same powers and be charged with the same duties as preventive officers of customs in this behalf.

Penalty for crimping.

XIII. And it is hereby enacted, that every person who shall attempt, by means of intoxication, or by false imprisonment, or other means of crimping, to export any native on board any ship or vessel contrary to the provisions of this Act, shall be liable to be punished before a magistrate in a fine not exceeding 500 rupees, or imprisonment not exceeding six months; provided that nothing in this Act contained shall prevent the offender from being proceeded against by indictment; but the offender shall only be liable to one of these courses of proceeding.

XIV. [*Applies to Calcutta only.*]

Punishment for forgery.

XV. And it is hereby enacted, that if any person shall forge, or shall use, knowing it to be forged, any document required by this Act, such person shall be liable to be imprisoned for any period not exceeding seven years.

Penalties how to be enforced.

XVI. And it is hereby enacted, that all the several penalties to which

masters of ships or vessels are liable by this Act, shall be enforced by information laid before any justice of the peace at the instance of the emigration agent, or of any officer appointed for the purpose by the Government of the place or Presidency, or may be enforced by putting in suit the bond given by the master, if such bond has been given, in consideration of the license granted to the ship.

A.D. 1843. ACT I.

AN ACT *for amending the Law concerning the Registration of written Conveyances and other Instruments affecting Titles and other Interests to Land:* PASSED *by the Honourable the President of the Council of India in Council, on the 27th January,* 1843, *with the Assent of the Right Honourable the Governor-General of India.*

Preamble.

WHEREAS the registry laws now in force in the respective Mofussils of Bengal, Madras, and Bombay, provide that registered conveyances and other instruments affecting titles to land and other interests therein shall not take precedence of unregistered conveyances and instruments in cases where the party registering shall have known of the existence of such unregistered conveyances or other instruments: And whereas a complicated system of law has arisen out of the construction which is to be given to the provisions regarding the knowledge of parties, or notice had by them in such cases: And whereas much perjury has been committed in investigations touching the fact of such notice or knowledge, and much of the time of the courts has been occupied with such investigations: And whereas, in consequence of forgeries, perjuries, fraudulent concealments, and other practices, no person purchasing or advancing money on the security of land can safely rely on the conveyances or other instruments affecting the title to such land or other interest therein, affording, by means of their being registered, a security against conveyances or instruments being set up, as of previous date, by unregistered claimants,—

Repeal of previous rules respecting effect of registry of deeds.

It is hereby enacted, that all provisions contained in any Regulation or Regulations of the Bengal, Madras, or Bombay codes, touching such knowledge or notice as aforesaid of previous unregistered conveyances, or instruments affecting titles to land or other interests therein, shall be repealed from the first day of May next.

[Effect of registry.]—*Repealed by Act XIX.*, 1843.

A.D. 1843. ACT III.

AN ACT *for amending the Rules of Special Appeals:* PASSED *by the Honourable the President of the Council of India in Council, on the 1st February,* 1843, *with the Assent of the Right Honourable the Governor-General of India.*

I. IT is hereby enacted, that, from and after the 1st day of May next, a special appeal shall lie to the Courts of Sudder Dewanny Adawlut at Calcutta and Allahabad respectively, to the Court of Sudder Adawlut at Madras, and to the Court of Sudder Dewanny Adawlut at Bombay, from all decisions passed on regular appeals in the civil courts subordinate to them respectively, which shall appear to be inconsistent with some law, or usage having the force of law, or some practice of the courts, or shall involve some question of law, usage, or practice, upon which there may be reasonable doubts.

Special appeals to lie to the Sudder from all subordinate courts.

Grounds of such appeals.

II. And it is hereby enacted, that applications for special appeals shall not be admitted unless they are presented to the proper court as aforesaid within the period limited for the presentation of regular appeals.

Limitation of time.

III. And it is hereby enacted, that every application for a special appeal shall be accompanied by copies of the several decrees previously passed on the case.

Copy of decree to accompany application.

IV. And it is hereby enacted, that every application for a special appeal, duly presented to the proper court as aforesaid, shall be heard by a single judge of the court in the presence of the special appellant, or his vakeel, or agent; and it shall be competent to the judge, at his discretion, to call for and peruse any document forming a part of the record of the cause, and to summon the opposite party to answer the application.

To be heard by a single judge; his power therein.

V. And it is hereby enacted, that if it shall appear to the judge that a special appeal is admissible under this Act, he shall pass an order accordingly, and shall, at the same time, reduce the point or points to be determined to writing in English, in the form of a certificate, which shall be translated into the vernacular language in use in the court, and the special appeal shall then be brought on the file of the court to be heard and determined in due course. Provided, that it shall not be necessary to call for or refer to any part of the proceedings, the reading of which is not required for deciding the point or points of law stated in the certificate.

Judge to certify the points to be determined.

VI. And it is hereby enacted, that if it shall appear to the judge that a special appeal is not admissible under this Act, he shall reject the petition; and his order so rejecting a petition for a special appeal shall be final.

Judge's order rejecting appeal, final.

VII. And it is hereby enacted, that in every case of special appeal admitted as aforesaid, the Court of Sudder Dewanny Adawlut shall

No points but those certified shall be determined.

determine the point or points, certified as above enacted, and no other point or part of the case whatever.

In what cases certified points may be amended.

VIII. Provided that when the special ground of appeal may have been incorrectly or incompletely certified, it shall be competent to the court to amend the certificate. Provided that such amendment shall relate only to the point or points originally stated in the certificate; and it shall not be lawful for the court to receive or add any new point or points.

Former rules reserved so far as consistent with this Act.

IX. And it is hereby declared, that the existing laws and Regulations of the Presidencies of Bengal, Madras, and Bombay, relating to special appeals, shall continue in force so far as they are not inconsistent with the provisions of this Act.

Operation of this Act.

X. And it is hereby enacted, that nothing contained in this Act shall affect the hearing of second or special appeals which shall have been admitted and be pending in appeal before the said 1st day of May next, and that all such second or special appeals shall be heard and decided in the same manner as if this Act had not passed.

A.D. 1843. ACT IV.

AN ACT *for amending the Law concerning Appeals from Justices of the Peace, and from Magistrates acting under the Statute* 53 *Geo. III., c.* 155: PASSED *by the Honourable the President of the Council of India in Council, on the* 24*th of March,* 1843, *with the Assent of the Right Honourable the Governor-General of India.*

Preamble.

WHEREAS, in many cases provided by law, offences may be prosecuted before magistrates not acting within local limits of the jurisdiction of Her Majesty's Supreme Courts, and which such magistrates may take cognizance of either in their magisterial capacity under the Regulations, or as justices of the peace: And whereas the appeal from convictions before magistrates acting in their magisterial capacities, and from the like convictions before justices of the peace, are subject to different rules: And whereas in all cases of convictions before justices of the peace in the Mofussil, and before magistrates exercising jurisdiction under the provisions of statute 53 Geo. III., c. 155, in cases of assaults, forcible entries, or other injuries accompanied with force committed by British subjects, the law as to appeals requires amendment,—

Appeal shall lie from sentences of justices of the peace in the provinces to same authority as appeals from magistrates in Mofussil Courts.

I. It is hereby enacted, that an appeal shall lie from all sentences passed by any justice of the peace, acting without the local limits of any of Her Majesty's Supreme Courts, upon convictions had before him for any offence, and from all sentences passed by any magistrate upon convictions

had before him exercising such jurisdiction as aforesaid, to the same authority and subject to the same rules as are provided by the Regulations and Acts of the Government in the case of sentences passed by magistrates in the exercise of their ordinary jurisdiction. And cases so made the subject of appeal shall not be afterwards liable to revision by means of a writ of certiorari.

Writ of certiorari to lie only when such appeal has not been preferred.

II. And it is hereby provided, that nothing in this Act contained shall be held to take away the power of quashing any conviction by means of a writ of certiorari, in any other case than where there has been such appeal as aforesaid.

A.D. 1843. ACT V.

AN ACT *for declaring and amending the Law regarding the condition of Slavery within the Territories of the East-India Company:* PASSED *by the Honourable the President of the Council of India in Council, on the 7th of April,* 1843, *with the assent of the Right Honourable the Governor-General of India.*

No person to be sold as a slave in satisfaction of a decree, or a revenue demand.

I. IT is hereby enacted and declared, that no public officer shall, in execution of any decree or order of court, or for the enforcement of any demand of rent or revenue, sell, or cause to be sold, any person, or the right to the compulsory labour or services of any person, on the ground that such person is in a state of slavery.

No right of slavery to be enforced in Company's Courts.

II. And it is hereby declared and enacted, that no rights arising out of an alleged property in the person and services of another as a slave shall be enforced by any civil or criminal court or magistrate within the territories of the East-India Company.

Rights possessed by, or derived from, a slave, protected.

III. And it is hereby declared and enacted, that no person who may have acquired property by his own industry, or by the exercise of any art, calling, or profession, or by inheritance, assignment, gift, or bequest, shall be dispossessed of such property, or prevented from taking possession thereof, on the ground that such person, or that the person from whom the property may have been derived, was a slave.

Offences against slaves penal as if done against a free man.

IV. And it is hereby enacted, that any act which would be a penal offence, if done to a free man, shall be equally an offence if done to any person on the pretext of his being in a condition of slavery.

A.D. 1843. ACT VII.

AN ACT *for abolishing the Provincial Courts of Appeal and Circuit in the Presidency of Fort St. George, and for establishing new Zillah Courts to perform their Functions; for establishing Courts constituted according to Regulations I. and II., and Regulations VII. and VIII. of* 1827, *in Place of the existing Civil and Criminal Zillah Courts, and for extending the Civil Jurisdiction of such Courts:* PASSED *by the Honourable the President of the Council of India in Council, on the* 28*th of April,* 1843, *with the assent of the Right Honourable the Governor-General of India.*

Governor in Council may, by order in Council, abolish the Provincial Courts and establish new courts.

I. IT is hereby enacted, that the Governor in Council of Fort Saint George be empowered, by an Order in Council to abolish the Provincial Courts of Appeal and Circuit, and the Civil and Criminal Zillah Courts, now existing in that Presidency, and to establish new Zillah Courts to perform the civil and criminal functions now performed by the said Provincial Courts; and to replace the existing Civil and Criminal Zillah Courts, by courts constituted according to Regulations I. and II. of 1827, or Regulations VII. and VIII. of 1827, at his discretion.

New Zillah Courts to be under a civil and session judge.

II. And it is hereby enacted, that every Zillah Court established under this Act shall be superintended by one judge, who shall be styled Civil and Session Judge of the Zillah.

CIVIL JURISDICTION.

Civil jurisdiction of new Zillah Courts.

III. And it is hereby enacted, that Zillah Courts established under this Act shall exercise within the limits assigned to them respectively, by the Order in Council by which they are constituted, the same civil jurisdiction as is now exercised by the Provincial Courts of Appeal, except the original jurisdiction vested in those courts in suits for an amount or value less than 10,000 Company's rupees: and shall be vested with the same authority, and shall be subject to the same rules and restrictions as such Provincial Courts of Appeal, except as hereinafter mentioned.

Civil jurisdiction of Subordinate Zillah Courts.

IV. And it is hereby enacted, that the original jurisdiction vested in the Provincial Courts of Appeal in suits for an amount or value less than 10,000 Company's rupees shall be transferred to the subordinate Zillah Courts constituted according to Regulations I. and VII. of 1827.

Rescission.

V. And it is hereby enacted, that Section VII., Regulation VII. of 1827, be rescinded.

Appeals from European officers of Government reserved to Zillah Courts.

VI. And it is hereby enacted, that in every zillah in which there is a subordinate court constituted according to Regulation VII. of 1827, the Zillah Court shall take cognizance of the appeals which by Section VIII. of that Regulation are reserved from the jurisdiction of such Court.

Requisitions from

VII. *First.* And it is hereby enacted, in modification of Section IX.,

Regulation VII. of 1827, that in all cases in which a principal sudder ameen has occasion to call upon a collector, subordinate collector, or assistant collector, or other European officer of Government, to do any thing in any matter before his court, he shall transmit to such officer an extract from the proceedings of the court containing a brief abstract of the case, and specifying what is required to be done by him, with a request that he will comply therewith, and that he will return an answer stating what he has done, within a certain time; and such officer shall comply with the requisition so conveyed to him, in the same manner as if it had been accompanied by a precept from the zillah judge.

principal sudder ameens to European officers of Government how to be made.

Second. Provided, that if such officer does not comply with such requisition, the principal sudder ameen shall report the case to the zillah judge, who shall proceed thereon as if the requisition had been made by a precept from himself.

Proviso.

VIII. *First.* And it is hereby enacted, that appeals shall lie to the Zillah Court from all decrees or orders of subordinate civil courts constituted according to Regulations I. and VII. of 1827, and of sudder ameens and district moonsifs, in cases in which appeals are now allowable, but such appeals must be preferred within the period of thirty days, to be calculated as prescribed in the existing Regulations.

What appeals lie to the Zillah Courts.

Limitation.

Second. Provided, that whenever a court constituted according to Regulation I. of 1827, or according to Regulation VII. of 1827, is established in any zillah at a place remote from the station of the Zillah Court, the Sudder Adawlut, with the sanction of the Governor in Council, may order appeals from the decisions and orders of district moonsifs stationed within the limits assigned to such court to be preferred to such court. But it shall be competent to the zillah judge, at his discretion, to call up to his own court, from time to time, appeals received by any such court, and to dispose of them himself.

In what cases appeals from district moonsifs may be preferred to Subordinate Courts.

Third. Provided also, that the judge of any Zillah Court may refer to any subordinate judge or principal sudder ameen in the zillah, any appeals from district moonsifs which may be filed in the Zillah Court.

Zillah judge may refer to Subordinate Courts appeals from district moonsifs.

Fourth. Provided also, that if any such appeal from a decision or order of a district moonsif, which may have been under this section referred for decision, or preferred in the first instance, to a subordinate judge or principal sudder ameen, be dismissed without any decision being come to on its merits, it shall be competent to the party aggrieved by such order of dismissal to prefer a summary appeal from it to the judge of the zillah; and it shall be the duty of the said zillah judge to hold such proceeding on such summary appeal as he may consider proper, and, having satisfied himself that the order dismissing the appeal has been passed without sufficient cause being shown for such dismissal, it shall be competent for such zillah judge to issue his precept to the court by which the appeal may have been dismissed, requiring that the appeal shall be again admitted on the file, and a decision passed upon it after mature consideration of its merits.

Zillah judges may receive summary appeals from orders of Subordinate Courts, dismissing appeals from district moonsifs, and may order their readmission.

IX. And it is hereby enacted, that appeals, regular and summary, from decisions and orders of the Zillah Courts, shall lie to the Sudder Adawlut, under the same rules and restrictions as are applicable to similar appeals to the Sudder Adawlut from the Provincial Courts of Appeal.

Regular and summary appeals lie from the Zillah Courts to the Sudder Adawlut.

Powers of single judges of the Sudder Adawlut.

X. *First.* And it is hereby enacted, that it shall be competent to a single judge of the Sudder Adawlut to hold a sitting of court on all matters within the cognizance of that court, and to pass orders or judgments in conformity to the regulations, subject to the following provisions.

May confirm decisions of inferior court.

Second. On the hearing of any appeal from the decision or order of any court of inferior jurisdiction, in any case, regular or miscellaneous, if a single judge of the Sudder Adawlut shall be of opinion that no sufficient ground has been shown to impugn the correctness or justness of such decision or order, it shall be competent to such single judge, without reference to the order of the file, to confirm the same without requiring the attendance of the opposite party, and with or without a revision of the whole proceedings, as the nature of the case may appear to require, and to communicate the order of confirmation, through the court from whose judgment the appeal was made, to the opposite party, with a view to enable such party to take immediate measures for the execution of the decree.

May correct irregularities and insufficiencies in proceedings of lower courts and order revision.

On the other hand, if a single judge shall be of opinion that the decision or order appealed against ought to be altered, or reversed, as being manifestly unjust or at variance with some Regulation in force, or in opposition to the Hindoo or Mahomedan law or other law applicable to the case, or as having been passed without sufficient investigation of the merits, or as grounded on an assumption obviously erroneous or irrelevant with reference to the points at issue, it shall likewise be competent to a single judge to issue an injunction pointing out the irregularity, illegality, or other defect apparent in the proceedings, decision, or order appealed against, and requiring that the court by which the same may have been held, or passed, shall revise the case, and proceed thereon in such manner as may appear conformable to justice and to the Regulations.

May call for proceedings and reports from lower courts.

Third. A single judge of the Sudder Adawlut may exercise his discretion in calling for the proceedings of the lower courts, or such parts of them as may appear necessary, and may further order a report in English, or in the vernacular language commonly used in the court, as the occasion may render advisable, on any points requiring explanation, prior to passing a determination on the case or matter in appeal.

May stay execution of decrees and orders.

Fourth. It shall further be competent to a single judge to direct, that the execution of any judgment or order passed by any inferior court, in all cases in which that measure may appear to him expedient, may be stayed until a final decision has been passed thereon.

Zillah judges and judges of Subordinate Courts may exercise powers in Clause Second.

XI. And it is hereby enacted, that the provisions of Clause Second of the foregoing section shall be applicable to the judges of Zillah Courts, and to subordinate judges and principal sudder ameens.

Translations not to be furnished to Sudder Adawlut by inferior courts.

XII. And it is hereby enacted, that any provisions of the existing Regulations which require inferior courts to furnish the Sudder Adawlut with translations of papers written in the vernacular languages of the country, which they may transmit to that court in appeals and other cases, be rescinded.

Process of Sudder Adawlut to be issued to Zillah Courts.

XIII. And it is hereby enected, in modification of Sections XIII. and XIV., Regulation V. of 1802, that all processes and orders therein

described which may issue from the Sudder Adawlut, shall be directed to the Zillah Courts established under this Act.

XIV. And it is hereby enacted, that it shall be competent to the judges of the Zillah Courts to refer the execution of decrees of the Sudder Adawlut, and of their own courts, to the subordinate judges, or principal sudder ameens of their zillahs, respectively, who shall proceed therein under the rules prescribed in the general Regulations applicable to such cases; provided that an appeal shall lie from any order passed by a subordinate judge, or principal sudder ameen, under such reference, to the Zillah Court in the first instance, and secondly a special appeal to the Sudder Adawlut.

Execution of decrees of Sudder Adawlut and Zillah Courts referrible to subordinate courts.

Summary appeals in such cases.

XV. And it is hereby enacted, that all other processes issued by the Sudder Adawlut and directed to the Zillah Court, or originating in the Zillah Court, shall be served under the orders of the zillah judge by the proper officers of the court.

Other processes of Sudder Adawlut and Zillah Courts to be executed by Zillah Courts.

XVI. And it is hereby enacted, in modification of Section VI., Regulation III., 1833, that the power of suspending sudder ameens from office, thereby vested in the zillah, assistant, and native judges, shall, for the future, be vested in the judges of Zillah Courts established under this Act.

Suspension of sudder ameens vested in zillah judges.

XVII. *First.* And it is hereby enacted, that all parts of Regulations VI. and VII., 1816 in which the zillah judge is mentioned shall be understood as applicable to the judges of the Zillah Courts established under this Act, excepting Section LVI., Regulation VI., 1816, which shall be applicable to the subordinate judges and principal sudder ameens, as extended by Section V., Regulation III., 1833. And all parts of Regulation VI. of 1816 in which the Provincial Court is mentioned shall be understood as applicable to the Sudder Adawlut.

What provisions of Regulations VI. and VII., 1816, apply to judges of the Sudder, Zillah, and Subordinate Courts respectively.

Second. Provided, that district moonsifs may be employed by subordinate judges and principal sudder ameens, as well as by judges of Zillah Courts, in the manner and for the purposes specified in Sections LX. and LXI., Regulation VI., 1816.

Proviso.

XVIII. And it is hereby enacted, that when a zillah judge sees reasons for calling up under Section LIV., Regulation VI., 1816, any cause that may be depending before a district moonsif, he may refer it for trial to the subordinate judge, or principal sudder ameen of the zillah, or to a sudder ameen, or another district moonsif.

Causes called up by zillah judge from district moonsif may be referred to lower courts.

XIX. And it is hereby enacted, that when a district moonsif shall forward to a zillah judge under Clause Second, Section III., Regulation I., 1829, a suit instituted in his court, in which he is directly or indirectly a party, or otherwise personally interested, the judge may refer it for trial either to a sudder ameen or another district moonsif.

Causes in which a district moonsif is a party may be referred by zillah judge to a sudder ameen or another district moonsif.

XX. And it is hereby enacted, that the judges of Zillah Courts may refer to the subordinate judges and principal sudder ameens, applications for the

How decrees of district punchayets may be executed.

execution of decisions of district punchayets preferred under Section XVII., Regulation VII., 1816.

Zillah judges may decide on charges of partiality preferred against district punchayets,

XXI. And it is hereby enacted, that it shall be competent to judges of Zillah Courts to pass orders of their own authority on complaints preferred under Section XI., Regulation VII., 1816, according to Clause Fourth thereof.

and military punchayets.

XXII. And it is hereby enacted, that the zillah judge shall be competent to receive and pass orders of his own authority on complaints preferred under Section XXVII., Regulation VII., 1832.

Actions and prosecutions for corruption against district moonsifs and sudder ameens to be instituted in Zillah Court.

XXIII. And it is hereby enacted, that civil actions and criminal prosecutions under Clauses First and Second, Section VIII., Regulation VI., 1816, with respect to district moonsifs, and as extended by Section XIII., Regulation VIII., 1816, with respect to sudder ameens, shall be brought before the Zillah Courts established under this Act.

Rescission.

XXIV. And it is hereby enacted, that Section III., Regulation VIII., 1816, be rescinded.

Sudder ameens may execute their own decrees, issue process, and levy fines.

XXV. And it is hereby enacted, in modification of Section XIV., Regulation VIII., 1816, that sudder ameens shall have authority to order execution of the decisions passed by them, according to the rules for the execution of decrees applicable to the courts to which they are attached, and to issue all process relative to the causes and proceedings before them under their own official seal and signature, and to realize fines imposed by them without reference to any superior officer.

CRIMINAL JURISDICTION.

Criminal jurisdiction of Zillah Courts.

XXVI. And it is hereby enacted, that the judges of the Zillah Courts established under this Act shall exercise within the limits assigned to those courts respectively, the same criminal jurisdiction as is now exercised by the judges of the Courts of Circuit; and shall be vested with the same authority, and subject to the same rules and restrictions, as far as they are applicable and consistent with this Act.

Zillah judges to hold permanent sessions.

XXVII. And it is hereby enacted, that the said judges shall hold permanent sessions in the said Zillah Courts for the trial of all persons accused of crimes and offences now cognizable by the Courts of Circuit, who shall be committed for trial by the subordinate judges, or principal sudder ameens, of the zillahs respectively.

Rescission.

XXVIII. And it is hereby enacted, that Section II., Regulation XIII., 1832, be rescinded.

Committal by subordinate judges and principal sudder ameens.

XXIX. And it is hereby enacted, in modification of Clauses First and Third, Section IX., Regulation X. of 1816, that if upon a perusal of the depositions given before the magistrate, or any competent officer of police, it shall appear to the subordinate judge, or principal sudder ameen, before whom a prisoner is brought charged with a crime or misdemeanour sub-

ject to the jurisdiction of the judge of the Zillah Court of Session, that there is evidence of the prisoner being concerned in the perpetration of the crime or misdemeanour with which he is charged, and if the deponents confirm their depositions on oath before him, it shall be competent to the subordinate judge, or principal sudder ameen, without further investigation, to commit the prisoner to take his trial before the session judge.

See Act V., 1840.

XXX. And it is hereby enacted, that the session judge shall commence the trial immediately, and shall take the examination of the prosecutor and of the witnesses for the prosecution, and the defence of the prisoner, and the examinations of the witnesses for the defence; and if more witnesses have been previously summoned and are expected to attend, or if the session judge thinks it necessary after the commencement of the trial to call for further evidence, he shall adjourn the proceedings, permitting the prosecutor and witnesses to return to their houses, unless he shall see special cause to detain them in order to their being confronted with the other witnesses whose attendance is expected.

Trial before session judge.

XXXI. And it is hereby enacted, that except in cases in which the session judge thinks proper to proceed as authorized in Section XXXII. of this Act, the Mahomedan law officer attached to the Zillah Court shall sit with the session judge for the trial of persons charged with crimes now cognizable by Courts of Circuit, in like manner and subject to the like regulations as are now applicable to law officers sitting with the Courts of Circuit.

Mahomedan law officers to sit with session judge. Exception.

XXXII. *First.* And it is hereby enacted, that it shall be competent to session judges, in the trial of criminal cases, to avail themselves at their discretion of the assistance of respectable natives, or other persons, in either of the two following ways.

Session judges may have aid of natives or others at trials

Viz. By constituting two or more such persons assessors, or members of the court, with a view to the advantages derivable from their observations, particularly in the examination of witnesses. The opinion of each of the assessors shall be given separately and discussed, and if any of the assessors, or the authority presiding in the court, desire it, the opinions of the assessors shall be recorded in writing.

as assessors,

Or by employing them more nearly as a jury. They will then attend during the trial, will suggest, as it proceeds, such points of inquiry as occur to them (the court, if no objection exists, using every endeavour to procure the required information), and after consultation will deliver in their verdict. The mode of selecting the jurors, the number to be employed, and the manner in which their verdict shall be delivered, are left to the discretion of the judge who presides.

or as jurors.

Second. Provided, that the law officer may be one of the assessors or jury.

Law officer may be one.

Third. Provided also, that the decision shall be passed by the judge according to his own opinion, whether he agrees with the assessors or jury, or not, if the case be one which under the existing Regulations it is competent to him to dispose of finally. But if he differs from the assessors or jury, his decision shall not be carried into effect unless con-

Judge's decision may be passed in opposition to opinions of assessors or jurors, but must then be referred to Foujdarry Adawlut.

firmed by the Court of Foujdarry Adawlut, to which the case shall be immediately referred.

Single judge of Foujdarry may alter a sentence in favour of prisoner

XXXIII. And it is hereby enacted, that it shall be competent to a single judge of the Foujdarry Adawlut, on a revision of the proceedings held on any criminal trial by any court of inferior jurisdiction, to reverse or alter the sentence or order passed thereon, provided such reversal or alteration be in favour of the accused, whether for acquittal, mitigation of punishment, or otherwise.

Single judge may confirm a sentence,

except for capital punishment

XXXIV. And it is hereby enacted, that if a single judge of the Foujdarry Adawlut, on a revision of the proceedings in a trial held by a session judge, concur in opinion with the session judge, whether for conviction or acquittal, it shall be competent to such single judge to pass a final sentence, except for capital punishment, which, as heretofore, shall in all cases require the concurrent opinion of two judges of the court.

Powers of Sudder Adawlut collectively in mitigating and annulling sentences.

XXXV. And it is hereby enacted, that it shall be competent to the Court of Foujdarry Adawlut, on a review of the abstract statements of prisoners punished without reference, to mitigate the sentence passed on any prisoner, when such sentence may appear, on the session judge's own showing of the facts, manifestly illegal or too severe; and it shall not be necessary for the court to call for the proceedings in such cases, unless they shall see special reasons for so doing. It shall further be competent to the court in like manner to annul the sentence passed in any case when such sentence may be in opposition to any law or Regulation in force, and to require the session judge to pass a new sentence according to law.

Session judges may overrule sentences of sudder ameens

XXXVI. And it is hereby enacted, in modification of Section II., Regulation III., 1833, that the authority to over-rule judgments passed by sudder ameens in criminal cases shall be vested in the session judges.

Application of certain rules

XXXVII. And it is hereby enacted, that Section XXIV., Regulation X., 1816; Clauses Second and Third, Section IV., Regulation II., 1822; Clause Second, Section V., and Clauses Second and Fourth, Section VIII., Regulation VI., 1827, shall be applicable to session judges instead of judges of circuit.

Prosecutions against magistrates to be instituted in Zillah Courts.

XXXVIII. And it is hereby enacted, that prosecutions against magistrates and their assistants under Section XLIII., Regulation IX., 1816, shall be instituted in the Zillah Courts established under this Act.

Session judges to report to Foujdarry Adawlut any gross misconduct of police officers.

XXXIX. *First.* And it is hereby enacted, in modification of Section III., Regulation XIII., 1832, that it shall be the duty of the session judge to bring to the notice of the Foujdarry Adawlut, any gross misconduct of any native officer of police which may have come under his observation in a case investigated by himself, or which may have been reported to him by a subordinate judge, or principal sudder ameen, and which appears to him to deserve the penalty of dismissal; and it shall be competent to the Foujdarry Adawlut to order the dismissal of such officer.

Second. Provided, that the session judge shall furnish a copy of his report upon the case to the magistrate, and the Foujdarry Adawlut shall not pass a final order upon it until the answer of the magistrate, which shall be addressed to that court, has been received and considered.

To furnish magistrate with copy of his report.

XL. And it is hereby enacted, that it shall be the duty of the session judge to bring to the notice of the magistrate any minor neglects or omissions, or transgressions, of the subordinate officers of police which have come under his own observation, or have been reported to him by a subordinate judge or principal sudder ameen; and such notifications shall be recorded in the periodical returns to the Foujdarry Adawlut.

Session judge to bring minor cases of misconduct to notice of magistrate.

XLI. And it is hereby enacted, that it shall be competent to the session judge to report to the Foujdarry Adawlut any neglect or delay on the part of the magistrate, or the subordinate officers of the magistracy, by which the course of justice has been seriously impeded in cases before himself, or which have been reported to him by a subordinate judge, or principal sudder ameen.

Session judges to report misconduct of magistrates and their officers to Foujdarry Adawlut.

XLII. And it is hereby enacted, that it shall be competent to the session judges, subordinate judges, and principal sudder ameens, to communicate directly with the district officers of police, for the purpose of obtaining all the evidence that appears to be forthcoming in cases in which prisoners have been forwarded by them charged with crimes and misdemeanours, Section LV., Regulation XI., 1816, notwithstanding.

Session and subordinate judges may communicate directly with officers of police.

XLIII. And it is hereby enacted, that except as provided in Section XLVII. of this Act, Europeans* and Americans charged with offences not punishable by the magistrate, committed within the local jurisdiction of a principal sudder ameen, shall be sent for trial to the session judge, who shall proceed thereon in conformity with the rules applicable to his own court, or to courts constituted according to Regulation II. of 1827, as the case may require.

Europeans and Americans, how to be proceeded against.

XLIV. And it is hereby enacted, that in any zillah, in which the Governor in Council of Fort St. George deems it expedient to establish the Zillah Court, and the court or courts under subordinate judges, or principal sudder ameens, at separate stations, it shall be competent to the said Governor in Council, by an Order in Council, to authorize the session judge to take cognizance of all criminal cases subject ordinarily to the jurisdiction of the Subordinate Courts, as well as cases subject to his own jurisdiction, which shall be sent to him by the magistrate or officers of police of such talooks as shall be therein indicated, and to dispose of such cases according to the rules applicable to them respectively.

In what cases session judges to discharge functions of subordinate courts.

XLV. And it is hereby enacted, that in any zillah in which the Governor in Council of Fort St. George deems it unnecessary to establish a Subordinate Civil and Criminal Court, constituted according to Regulations I. and II., or Regulations VII. and VIII., 1827, it shall be com-

In what cases civil and session judge to discharge all duties of subordinate judges.

* Not British subjects. See Sec. xxxi., Reg. IX., 1816.

petent to the said Governor in Council, by an Order in Council, to authorize the civil and session judge to exercise the civil and criminal jurisdiction assigned to such courts, besides the proper civil and criminal jurisdiction of the Zillah Court, and to take cognizance immediately of criminal cases within his proper jurisdiction as session judge, as they are sent up by the police and magistracy.

In what cases jurisdiction of sudder ameens may be enlarged.

XLVI. And it is hereby enacted, that when the said Governor in Council deems it proper to establish in any such zillah a court under a sudder ameen at a detached station, it shall be competent to the Governor in Council to authorize the sudder ameen to receive and dispose of civil suits arising in the portion of the zillah over which jurisdiction shall be assigned to him, without the intervention of the zillah judge, under the limitation as to amount or value prescribed by the existing Regulations; and also to receive and dispose of criminal cases sent to him by the police and magistracy of the division subject to his jurisdiction, for which the punishment prescribed shall not exceed the limitation specified in Section VII., Regulation X. of 1816.

See Sec. 1, Act IX., 1844.

Special rule for Cochin.

XLVII. And it is hereby enacted, that whenever the Governor in Council of Fort St. George shall establish a court under a European principal sudder ameen at Cochin, such principal sudder ameen shall exercise, within the jurisdiction assigned to him, all the powers of a Criminal Court constituted according to Regulation II. of 1827, and also all the powers of a joint magistrate.

When jail is to be in charge of session judge,

XLVIII. And it is hereby enacted, that when the Subordinate Criminal Court at the station of a Zillah Court is constituted according to Regulation VIII. of 1827, the zillah jail shall be under the charge of the session judge.

and when in charge of subordinate judge.

XLIX. And it is hereby enacted, that when the Subordinate Criminal Court at the station of the Zillah Court is constituted according to Regulation II. of 1827, the zillah jail shall be under the charge of the judge of the Subordinate Criminal Court, and the session judge shall be vested with authority to visit the jail, and to pass orders according to Section XXXII., Regulation VII. of 1802, and Section VII., Regulation X., 1832.

Officers and vakeels of Zillah Courts to be subject to same rules as those of Provincial Courts.

L. And it is hereby enacted, that the subordinate officers and vakeels, who shall be appointed to the Zillah Courts established under this Act, shall be subject to the same rules as are applicable to the subordinate officers and vakeels of the Provincial Courts of Appeal.

Law officers to be appointed as ordered by Governor in Council

LI. And it is hereby enacted, that the Governor in Council of Fort St. George shall direct what law officers shall be appointed to the Zillah Courts established under this Act, and shall order the manner of their appointment; and such officers shall be subject to the same rules as the law officers of the Provincial Courts of Appeal.

Assistant judges may

LII. And it is hereby enacted, that the Governor in Council of Fort

St. George may appoint an assistant judge to any Zillah Court, to whom the judge shall have authority to refer any appeals which may be depending before him, excepting appeals from the Subordinate Courts constituted according to Regulation I., or Regulation VII., of 1827; and such assistant judge shall be empowered to try and dispose of cases so referred to him under the rules applicable to the judge.

be appointed to Zillah Courts.

LIII. And it is hereby enacted, that it shall be lawful for the Governor-General in Council, by an Order in Council, to authorize the Governor in Council of Fort St. George, at any time to change the stations of Zillah Courts and the limits of their local jurisdiction, and to abolish any of the Zillah Courts which shall be first established under this Act, and to establish new Zillah Courts in any parts of the Presidency of Fort St. George.

Stations and local jurisdiction of Zillah Courts may be altered.

LIV. *First.* And whereas it is deemed expedient to extend the powers vested in magistrates by Regulation IX. of 1816,—

It is hereby enacted, that the magistrates be authorized to exercise the powers vested in criminal judges by Section VII., Regulation X. of 1816, concurrently with the Subordinate Criminal Courts.

Powers of Subordinate Courts may be exercised by magistrates.

Second. Provided that in all cases in which magistrates shall exercise the additional powers hereby vested in them, the form of procedure shall be the same as is required to be observed in the Subordinate Criminal Courts in similar cases, and the same record shall be kept of the trial.

Proviso.

LV. And it is hereby enacted, that in every case in which a magistrate shall exercise such additional powers, an appeal from his sentence or order may be preferred to the session judge within one month; and it shall be competent to the session judge, upon such an appeal, to annul or alter the sentence or order, provided that he shall not increase the punishment awarded by the magistrate.

Appeal in such cases.

See Act VIII., 1843.

LVI. And it is hereby enacted, that all criminal cases which may be depending at the time of the abolition of the Zillah and Provincial Courts, shall be disposed of by the courts acquiring jurisdiction over the same in virtue of this Act. Provided, however, that prisoners who may have been committed for trial by the session judge in his former office of criminal judge, or joint criminal judge, and who may object to be tried by that officer, shall be tried by the session judge of another court, or by the special commissioner of the division, or by an officer specially appointed by Government.

Provision for depending trials.

A.D. 1843. ACT VIII.

AN ACT *for disposing of the Original Suits and Appeals depending before the Provincial Courts of Appeal in the Presidency of Fort St. George, the Abolition of which is authorized by Act No. VII. of* 1843: PASSED *by the Honourable the President of the Council of India in Council, on the* 28*th of April,* 1843, *with the assent of the Right Honourable the Governor-General of India.*

Preamble.

WHEREAS it is necessary that provision should be made for the disposal of original suits and appeals depending before the Provincial Courts of Appeal in the Presidency of Fort St. George, the abolition of which is authorized by Act No. VII. of 1843,—

Governor in Council may appoint a special commission to dispose of suits depending before the Provincial Courts.

I. It is hereby enacted, that the Governor in Council of Fort St. George be empowered to appoint a single judge to hold a court in place of each of the said Provincial Courts at the station of such Provincial Court, with a special commission to dispose of all original suits and appeals which may be depending before such court, on the date on which the said Governor in Council shall order the functions of the Provincial Courts to cease.

Title of the special commissioner.

II. And it is hereby enacted, that the judges, who shall be appointed for this purpose, shall be styled respectively, viz.

Special commissioner for disposing of the causes depending before the late Provincial Court for the (northern, southern, centre, or western) division.

Oath to be taken by special commissioner.

III. And it is hereby enacted, that every special commissioner so appointed, previously to entering upon the execution of the duties of his office, shall take and subscribe the oath prescribed to be taken by judges of the Provincial Courts of Appeal, before any person who shall be commissioned by the Governor in Council of Fort St. George to administer it.

What suits to be transferred to the new Zillah Courts for trial.

IV. And it is hereby enacted, that the special commissioners shall transfer the original suits on the files of Provincial Courts, in which no proceedings have been held beyond the filing of the pleadings and exhibits, to the Zillah Courts within whose jurisdiction they would fall respectively if they were commenced de novo, and such suits shall be tried and decided by the judges of such Zillah Courts subject to appeal to the Sudder Adawlut.

Powers of the special commissioner.

V. *First.* And it is hereby enacted, that all other original suits, and all appeals on the file of the Provincial Courts, shall be tried and decided by the special commissioners, who shall have the same powers as heretofore have been vested in the two or more judges of such courts sitting together,

subject to the same rules and restrictions, and under the same provisions for appeals to the Sudder Adawlut.

Second. Provided, that in a case of special appeal from a lower court, if a special commissioner differs from the court from whose decision the appeal is preferred, he shall not pass a final judgment reversing the decision, but shall record his opinion and transmit the record of the case to the Sudder Adawlut, to be laid before a single judge of that court, whose judgment, confirming or reversing the decree appealed against, shall be final.

Proviso in respect of special appeals.

VI. And it is hereby enacted, that the execution of decrees of the special commissioners, and also of the Provincial Courts for which process was not issued previously to their abolition, shall be committed to the judge of the zillah in which the suit was instituted; or if the suit was instituted in the Provincial Court, to the judge to whose jurisdiction the suit would fall if it were commenced de novo. The records of the cases shall be transmitted, together with the decrees, to the respective zillah judges, who shall proceed in the execution of the decrees in the same manner as if they were passed by themselves, and appeals from their orders shall lie to the Sudder Adawlut.

How decrees of special commissioner shall be executed.

VII. And it is hereby enacted, that the judges of the Zillah Courts shall proceed in like manner to complete the execution of decrees of the Provincial Courts under process previously issued, subject to appeal to the Sudder Adawlut.

How previous decrees of Provincial Courts to be executed.

VIII. And it is hereby enacted, that from decisions passed by zillah judges, assistant judges, and principal sudder ameens, previously to the abolition of the Provincial Courts, in cases appealable to those courts, in which the time allowed for appealing shall not have expired at the date of their abolition, an appeal shall lie to the Sudder Adawlut, provided that the petition of appeal be presented to the Sudder Adawlut or to the civil judge of the zillah in which the original suit was decided, within one month from the expiration of the period within which it ought to have been presented, under the rules applicable to appeals to the Provincial Courts.

How cases are to be disposed of in which the time for appeal to Provincial Court had not expired.

Limitation.

IX. And it is hereby enacted, that it shall be competent to the Governor in Council of Fort St. George to authorize the appointment of ministerial officers and vakeels of the courts of special commissioners, who shall be subject to the same rules as are applicable to the ministerial officers and vakeels of the Provincial Courts.

Governor in Council may sanction appointment of vakeels and ministerial officers to Special Commissioners' Courts.

A.D. 1843. ACT X.

AN ACT *for the Administration of Justice and Collection of the Revenue in the Districts of Kurnool and Bunganapilly:* PASSED *by the Right Honourable the Governor-General of India in Council, on the* 15*th July*, 1843.

Administration of civil and criminal justice and police, and superintendence of all revenue affairs in the districts of Kurnool and Bunganapilly vested in an agent to be appointed by Government of Fort St. George, with assistants similarly appointed.

I. IT is hereby enacted, that from and after the 1st day September, 1843, the administration of civil and criminal justice, the superintendence of the police, and the collection and superintendence of the revenues of every description within the districts of Kurnool and Bunganapilly, shall vest in such agent to the Governor of Fort St. George as shall be appointed by the Governor in Council of Fort St. George, and shall be exercised by the said agent with the aid of such assistants as may be appointed by the said Governor in Council.

Government of Fort St. George may prescribe rules for guidance of agent and his subordinates.

And may fix the limit of final civil jurisdiction and of appeals.

And may define authority of agent in criminal trials, and what cases shall be submitted to Foujdarry Adawlut.

II. And it is hereby enacted, that it shall be competent to the Governor in Council of Fort St. George, by an Order in Council, to prescribe such rules as he may deem proper for the guidance of the agent aforesaid, and of all the officers subordinate to his control and authority, and to determine to what extent the decision of the agent in civil suits shall be final, and in what suits an appeal shall lie to the Sudder Adawlut, and to define the authority to be exercised by the agent in criminal trials, and what cases he shall submit to the decision of the Foujdarry Adawlut.

On trials referred, Foujdarry Adawlut shall pass judgment or pass order as in cases referred from a judge of circuit.

III. And it is hereby enacted, that upon the receipt of any criminal trials referred by the agent under the rules which may be hereafter prescribed by the Governor in Council, the Foujdarry Adawlut shall proceed to pass a final judgment, or such other order as may, after mature consideration, seem to the court requisite and proper, in the same manner as if the trial had been sent up in ordinary course from a judge of circuit.

Civil appeals to be decided by Sudder Adawlut as appeals from Provincial Courts.

IV. And it is hereby enacted, that upon the receipt of any appeal from a decree of the agent, duly preferred under the rules to be prescribed as aforesaid, the Court of Sudder Adawlut shall proceed to try and determine it in the same manner as appeals from the Provincial Courts.

Government of Fort St. George competent, with the previous sanction of the Supreme Government, to make alterations in the limits of the jurisdiction of the agent.

V. And it is hereby enacted, that it shall be competent to the Governor in Council of Fort St. George, by an Order in Council, to make, from time to time, with the previous sanction of the Governor-General of India in Council, such alterations in the limits of the aforesaid districts placed under the jurisdiction of the said agent, as he may deem expedient.

A.D. 1843. ACT XII.

AN ACT *concerning the Time at which and the Language in which the Decisions of the Judges in the Courts of the East-India Company are to be written:* PASSED *by the Right Honourable the Governor-General of India in Council, on the 29th July,* 1843.

WHEREAS it is expedient, that the decisions of courts of justice and the reasons for the decision should be written and signed by the judge at the time of pronouncing his decision, and in the vernacular language of the judge,— Preamble.

I. It is hereby enacted, that in all the Presidencies so much of all decrees as consists of the points to be decided, the decision thereon and the reasons for the decision, and all injunctions for the revision of decrees in regular suits, and all orders for reviews of judgment, which shall be passed by judges of the Sudder Courts, or by judges of Zillah and City Courts, or by subordinate or assistant judges of zillahs, shall be written originally in English, and signed by the judge or judges at the time of pronouncing such decision and orders; and shall be translated into the vernacular language, commonly used in the court wherein the suit to which the decree or order relates, shall have been instituted; and the translation shall be incorporated in the decree. What decrees and orders must be written originally in English, and translated.

II. Provided that nothing in this Act contained shall be construed to repeal or affect any Regulation of the codes of the Presidencies of Fort St. George and Bombay, by which the decrees of the Sudder Courts are required to be written in English, nor to repeal or affect any Regulation of the code of the Presidency of Fort St. George, by which the decrees of the Provincial and Zillah Courts and Auxiliary Courts under assistant judges, and the orders of the Sudder Court and Provincial Courts on petitions presented to them, are required to be written in English. Not to supersede former orders about writing in English.

And whereas it is expedient that, excepting as regards the language to be used, principal sudder ameens, sudder ameens, and moonsifs should be guided by the same rules as are hereinbefore provided for the guidance of the superior judges,—

III. It is hereby enacted, that in all the Presidencies so much of all decrees as consists of the points to be decided, the decision thereon and the reason for the decision, which shall be passed by principal sudder ameens, sudder ameens, or moonsifs, shall be written originally in the vernacular language of such principal sudder ameen, sudder ameen, or moonsif, and signed by such principal sudder ameen, sudder ameen, or moonsif, at the time of pronouncing such decision, and (in case such vernacular language shall not be the same as the vernacular language commonly used in the court wherein the suit to which the decree relates shall have been instituted) shall be translated into such last-mentioned vernacular language, and the translation shall be incorporated in the decree. What parts of the decrees of native judges shall be originally written in their own vernacular language; and how translated.

A.D. 1843. ACT XIII.

AN ACT *for regulating Inquiries into the Truth of Matters implicating the Public Conduct of Officers not removable without the Sanction of Government within the Presidency of Fort St. George in Madras:* PASSED *by the Right Honourable the Governor-General of India in Council, on the 29th July,* 1843.

Preamble.

WHEREAS it is expedient to amend the provisions contained in the Regulations concerning inquiries into the truth of the matters implicating the public conduct of European officers, and to extend the same to all officers not removable without the sanction of the Government,—

Rescissions.

I. It is hereby enacted, that Regulations III. of 1809, II. of 1810, VI. of 1818, and VIII. of 1822, of the Madras Code, be repealed.

Sudder Court and Board of Revenue may submit charges against officers not removable without sanction of Government to Governor in Council.

II. And it is hereby enacted, that in the territories subject to the Presidency of Fort St. George in Madras, whenever either the Courts of Sudder and Foujdarry Adawlut, or the Board of Revenue, shall be of opinion that substantial grounds exist for making a regular and formal inquiry into the truth of any imputation of official misconduct affecting any officer subject to their control respectively, and not removable without the sanction of Government, they shall submit the documents on which their opinion may be founded, together with a statement of the charges reduced to distinct articles which they may propose to be made the subject of a regular investigation, to the Governor in Council of Fort St. George, for his consideration and orders.

Sudder Court and Board of Revenue how to conduct preliminary inquiry.

III. And it is hereby enacted, that any charge or information, of the description aforesaid, may be preferred direct to the Courts of Sudder and Foujdarry Adawlut, or to the Board of Revenue, respectively, who shall examine the complainant or informant circumstantially upon oath, or upon solemn affirmation if he be entitled to be exempted from taking an oath, and require the party accused to explain or reply to any matters they may deem to need explanation, and make such further inquiries, upon oath or affirmation, upon the subject, as they may judge proper.

See Act V., 1840.

Judges, magistrates, and collectors may receive charges or informations.

IV. And it is hereby enacted, that any charge or information may also be made before any judge, magistrate, or collector, for any acts of the description before mentioned committed within their jurisdiction, respectively, who shall examine the complainant or informant circumstantially upon oath, or upon solemn affirmation if he be entitled to be exempted from taking an oath, and shall transmit the deposition so taken to the Sudder and Foujdarry Adawlut, or to the Board of Revenue, according as the person accused may be subject to those authorities respectively.

See Act V., 1840.

Sudder Court or Board of Revenue not to act on information

V. And it is hereby provided, that it shall not be lawful for the Courts of Sudder and Foujdarry Adawlut, or the said Board, respectively, to act

upon any such charge or information, unless the person preferring the same shall make oath, or solemn affirmation in case he be entitled to be exempted from taking an oath, that he believes the facts on which the charge is grounded to be true.

unless it be given on oath or affirmation.

VI. And it is hereby provided, that it shall be lawful for the Courts of Sudder and Foujdarry Adawlut, and for the said Board, respectively, to dismiss any such charge or information, where they do not see any substantial reason for entering further into the inquiry. Provided, that on every occasion when they shall dismiss any such charge or information, they shall submit the same, together with all the circumstances of the case, in like manner as is provided in Section II. of this Act.

Sudder Court and Board of Revenue may dismiss charges, but must submit proceedings to Governor in Council

VII. And it is hereby provided, that the said Courts of Sudder and Foujdarry Adawlut, and the said Board, respectively, may, at any stage of the inquiry into such matters as aforesaid, require the person preferring such charge or information as aforesaid to furnish such security as may be deemed reasonable that he will attend and prosecute the charge to a conclusion, and in the event of security being so required, all proceedings shall be stayed until the same shall be furnished accordingly.

The Court or Board may require the party charging to give security to prosecute the charge

VIII. And it is hereby provided, nevertheless, that if any matter of the nature aforesaid affecting such officer as is mentioned in the second section of this Act, shall appear in the course of any proceedings, whether preliminary or otherwise, which shall come before or be reported to either of the Courts of Sudder and Foujdarry Adawlut, or the said Board, respectively, those authorities shall act upon such matter, or institute such inquiry, upon oath or affirmation as aforesaid, into the same as they shall deem proper for the purpose of such reference as aforesaid to the Governor in Council of Fort St. George, although no charge or information be preferred as aforesaid; and in such cases it shall not be necessary, before acting upon or instituting any inquiry concerning any matter so appearing in the course of proceedings, to require any oath or affirmation in regard to the truth of such matter.

Court or Board may proceed, without charge preferred, to investigate matters appearing from any proceedings before them to criminate an officer.

IX. And it is hereby enacted, that if the Governor in Council of Fort St. George, upon such reference as is mentioned in the second section of this Act, shall concur with the authority by which it may be submitted, or if such Governor in Council shall, from information of the description aforesaid that may be laid before him in respect of any officer not directly subject to the Courts or Board above named, deem it necessary to institute proceedings against any such officer, he shall appoint a commissioner or commissioners for making a regular and formal inquiry into the truth of the matters referred.

On report of Court or Board, or on any other information, Governor in Council may appoint a commission

X. And it is hereby enacted, that on the appointment of every such commission, the said Governor in Council shall direct whether the commission shall be placed under the control of any of the authorities aforesaid, or shall act immediately under the authority of Government, and all commissions appointed as aforesaid shall be guided by the instructions which they may receive in this behalf from the Government.

Governor in Council shall direct under whose authority the commission shall proceed.

Commissioners to take oath.

XI. And it is hereby enacted, that the commissioner or commissioners appointed as aforesaid, before entering on the discharge of his or their duties, shall take the following oath :—

I, A. B., commissioner for the purpose of (here state the object of the commission), do solemnly swear that I will faithfully and impartially perform the duty committed to me without fear, favour, or bias, to the best of my ability, knowledge, and judgment; so help me God.

Governor in Council to determine who shall conduct prosecution.

XII. And it is hereby enacted, that whenever a charge shall be referred for investigation to a special commission, the said Governor in Council will determine whether the conduct of the prosecution shall be left to the accuser, or be undertaken on the part of Government. In the latter case, the said Governor in Council will nominate such person or persons as may be deemed proper, to conduct the prosecution on behalf of Government.

Proceedings on inquiry before the commission.

XIII. And it is hereby enacted, that it shall be the duty of commissioners appointed under this Act, after receiving the plaint or charge, and the documents from which the same may have been prepared, to call upon the person accused for his reply to the accusation; to examine upon oath, or under a solemn declaration, the witnesses named by the accuser or the accused; to receive any further written documents offered in support of, or against the accusation; and to call for and take any further requisite evidence which may be indicated by the witnesses adduced, or documents exhibited by either party, and may appear to be necessary for the ascertainment of facts, or the discovery of the truth or falsehood of the charges, or of any part thereof.

Commission to have powers of a Zillah Court.

Service of process.

XIV. And it is hereby enacted, that for the discharge of the duties specified in the preceding section, or any other functions which may be delegated to a commission under this Act, such commission shall be vested with the same powers as are exercised by the Zillah Courts, except that all process to cause the attendance of witnesses, or other compulsory process, shall be served through the zillah judge in whose jurisdiction the commission may be held, and executed by the zillah judge in whose jurisdiction the witness or other person upon whom the process is to be served may reside.

Accused and accuser may record remarks at the close of the proceedings.

XV. And it is hereby enacted, that on the close of the evidence for the prosecution and defence, the accused shall be at liberty to record any observation upon the result of the inquiry which he may think necessary for the vindication of his conduct and character. The accuser, or the person appointed to conduct the prosecution on the part of Government, shall also be at liberty to record any remarks on the subject of the prosecution which he may deem requisite.

Commission to submit the proceedings to Government, or to the Court or Board under which it is placed.

XVI. And it is hereby enacted, that as soon after the conclusion of the proceedings as circumstances shall permit, the commissioner or commissioners shall, when the commission shall be instructed to act immediately under the authority of Government, submit directly to the Government to which he or they may be subordinate, and in other cases to the controlling

Court or Board, the proceedings under the commission, accompanied by translations of papers not in the English language, together with a summary of the pleadings and evidence, and his or their opinion of the merits of the case.

Governor in Council and Court or Board may call for further evidence or information.

XVII. And it is hereby provided, that it shall be lawful for the said Governor in Council, or the controlling Court or Board, upon consideration of the report of any such commission as aforesaid, to direct the commissioner or commissioners to take further evidence, or to give further explanation of his or their opinion or opinions connected with the case investigated, and the commissioner or commissioners are authorized and required to take such further evidence, and to give such further explanation.

Court or Board to submit proceedings, with their opinion, to Governor in Council.

XVIII. And it is hereby enacted, that the Sudder and Foujdarry Adawlut, or the Board to which any report of a commissioner or commissioners may be submitted as aforesaid, after due consideration of the same, and after obtaining such further evidence or explanations as they may require, shall submit the whole of the proceedings and documents received by them to the Government, together with their opinion whether any and what charges have been established against the accused.

Governor in Council to determine whether the accused shall be suspended from office and pay.

XIX. And it is hereby provided, that whenever a special commission may be appointed under the provisions of this Act, the said Governor in Council will determine, on a view of the nature and circumstances of the case, whether the accused officer shall be suspended from the discharge of the functions of his office; and if so, whether he shall be permitted to draw the established allowances of his office, or otherwise.

Governor in Council will pass final decision, or order accused to be prosecuted before competent court of law.

XX. And it is hereby provided, that the Governor in Council, on consideration of the report and proceedings submitted to him in pursuance of Sections XVI. and XVIII. of this Act, will pass such decision on the case as may appear to him most consonant to the principles of justice, and consistent with the powers possessed by Government in matters of this description; and in the event of his deeming it necessary that the party accused should be brought to trial by a public prosecution before a competent court of law, will issue the necessary instructions for that purpose to the law officers of Government. But whatever proceedings may be held, or whatever decision or order may be passed by Government, individuals deeming themselves aggrieved by any public officer will be at all times at liberty to seek redress according to the ordinary forms prescribed by law.

A.D. 1843. ACT XVIII.

AN ACT *for the better Custody of Persons convicted of Thuggee and Dacoity:* PASSED *by the Right Honourable the Governor-General of India in Council, on the 9th September,* 1843.

Preamble.

WHEREAS it often happens that the offences of thuggee and dacoity are committed by gangs, as well within the territories subject to the Government of the East-India Company, as in those of Native Princes or States in alliance with the said Company; and it may be necessary for the safety of persons and property within the territories subject to the Government of the East-India Company, that persons convicted of the like offences within the territories of such Princes or States should be kept in secure custody, which cannot always be done within the last-mentioned territories:

In what cases local Government may authorise the detention and imprisonment of persons convicted of thuggee or dacoity out of the Company's territories.

It is hereby enacted, that it shall be lawful for the local Government of any part of the territories subject to the Government of the East-India Company, to authorize the reception and detention in any part of those territories, for the periods specified in their respective sentences, of persons sentenced to imprisonment or transportation for the offences of thuggee, dacoity, or the offences of belonging to any gang of thugs or dacoits, within the territories of any Native Prince or State in alliance with the said Company. Provided always, that such sentences shall have been pronounced after trial before a tribunal, in which a covenanted servant of the East-India Company, duly authorized in that behalf by such Prince or State, shall be one of the presiding judges. And it is hereby enacted, that every servant of the East-India Company, so authorized as aforesaid, shall forward with every prisoner a certificate of his conviction and a copy of the proceedings held at the trial, that the same may be forthcoming for reference at the place where the sentence of imprisonment may be carried into effect.

A.D. 1843. ACT XIX.

AN ACT *for amending the Law respecting the Registration of certain Deeds:* PASSED *by the Right Honourable the Governor-General of India in Council, on the 28th October,* 1843.

WHEREAS doubts have arisen as to the true meaning and construction of Act No. I. of 1843:

Repeals rules of Act I., 1843, excepting repealing clause.

I. It is hereby enacted, that the said Act is repealed, except in so far as it repeals all provisions contained in any Regulation or Regulations of

the Bengal, Madras, or Bombay codes, touching the knowledge or notice, had by parties to registered conveyances and other instruments affecting titles to land and other interests therein, of the existence of unregistered conveyances or other instruments affecting such titles or other interests therein.

II. And it is hereby enacted, that from the 1st day of May last past, every deed of sale or gift of lands, houses, or other real property, a memorial of which has been, or shall be, duly registered according to law, shall, provided its authenticity be established to the satisfaction of the court, invalidate any other deed of sale or gift for the same property which may not have been registered, and whether such second or other deed shall have been executed prior or subsequent to the registered deed—and that from the said day every deed of mortgage on land, houses, and other real property, as well as certificates of the discharge of such incumbrances, a memorial of which has been, or shall be, duly registered according to law, and provided its authenticity be established to the satisfaction of the court, shall be satisfied in preference to any other mortgage on the same property which may not have been registered, and whether such second or other mortgage shall have been executed prior or subsequent to the registered mortgage, any knowledge or notice of any such unregistered deed or certificate alleged to be had by any party to such registered deed or certificate notwithstanding. Provided always, that nothing in this section contained shall be construed to extend to any deed or certificate made before the said 1st day of May last past.

Registered titles to land invalidate all unregistered titles.

Registered mortgage-deeds take priority of non-registered.

Limitation of time.

III. And it is hereby declared and enacted, that no conveyance or other instrument affecting title to land, or any interest in the same, whether made before or after the said 1st day of May last past, other than such deeds or certificates as aforesaid, are or shall be in any respect void for want of registration, any Act, Regulation, or law to the contrary notwithstanding.

What deeds not affected by this Act.

A.D. 1843. ACT XXIV.

AN ACT *for the better Prevention of the Crime of Dacoity:* PASSED *by the Right Honourable the Governor-General of India in Council, on the* 18*th November*, 1843.

WHEREAS it has been considered necessary to adopt more stringent measures for the conviction of professional dacoits, who belong to certain tribes, systematically employed in carrying on their lawless pursuits in different parts of the country, and for this purpose to extend the Provisions of Acts XXX. of 1836, XVIII. of 1837, and XVIII. of 1839, for

Preamble.

the prevention of thuggee, to persons concerned in the perpetration of dacoity:

Members of a dacoity gang may be transported and imprisoned.

I. It is hereby enacted, that whosoever shall be proved to have belonged, either before or after the passing of this Act, to any gang of dacoits, either within or without the territories of the East-India Company, shall be punished with transportation for life, or with imprisonment for any less term with hard labour.

Persons charged with dacoity may be committed by any magistrate.

II. And it is hereby enacted, that any person accused of the offence of dacoity with or without murder, or of having belonged to a gang of dacoits, or of the offence of unlawfully and knowingly receiving or buying property stolen or plundered by dacoity, may be committed by any magistrate within the territories of the East-India Company, and may be tried by any court which would have been competent to try him if his offence had been committed within the zillah where that court sits.

No futwa required in cases of dacoity.

III. And it is hereby enacted, that no court shall, on trial of the offences specified in this Act, require any futwa from any law officer.

A.D. 1843. ACT XXV.

An Act *for making the Provisions of* 5 & 6 *Vict.*, *c.* 47, *sec.* xi., *applicable to India:* Passed *by the Right Honourable the Governor-General of India in Council, on the* 23*rd November*, 1843.

Preamble.

Whereas doubts have arisen as to whether so much of an Act passed in the 5th and 6th year of the reign of Her Majesty Queen Victoria, entitled "An Act to amend the Laws relating to the Customs," as provides "that from and after the 5th day of January, 1843, any articles of foreign manufacture, and any packages of such articles imported into the United Kingdom, or into the British possessions abroad, bearing any names, brands, or marks, purporting to be the names, brands, or marks of manufacturers resident in the United Kingdom, shall be forfeited," is applicable to the territories subject to the Government of the East-India Company:

Foreign manufactures introduced under marks of manufacturers in the United Kingdom liable to forfeiture.

It is hereby enacted, that from and after the 1st day of May, 1844, any articles of foreign manufacture, and any packages of such articles imported into the territories subject to the Government of the said Company, bearing any names, brands, or marks, purporting to be names, brands, or marks of manufacturers resident in the United Kingdom, shall be forfeited.

A.D. 1844. ACT I.

AN ACT *for securing certain Immunities and Privileges to His Highness the Nabob of the Carnatic, his Family and Retinue:* PASSED *by the Honourable the President of the Council of India in Council, on the 20th January,* 1844, *with the assent of the Right Honourable the Governor-General of India.*

Preamble.

WHEREAS questions have lately been raised as to the liability of persons of the family, household, and retinue of His Highness the Nabob of the Carnatic to the process and jurisdiction of courts of justice, and it is deemed expedient that provision should be made for protecting by legislative enactment, under the qualifications hereinafter mentioned, certain individuals of the family, household, and retinue of his said Highness from any such liability, and from claims and litigation to establish any such liability:

Governor in Council may publish lists exempting members of the Nabob's family from the jurisdiction of courts.

I. It is hereby enacted, that it shall be lawful for the Governor in Council of Fort St. George to publish, from time to time, in the Gazette at Madras, lists containing the names of persons belonging to the family, household, or retinue of His Highness the Nabob of the Carnatic, or of the Nabob Regent for the time being, who are to be entitled under this Act to privilege from civil and criminal process, and also, from time to time, to revise and alter such lists, and publish in the Gazette as aforesaid new lists of the persons entitled, for the time being, to such privilege, and the list which shall have been last so published, shall be the list which, for the time being, shall be in force and effect for the purpose of this Act.

No writ to be served on Nabob or the exempted persons of his family without the consent of Governor in Council.

II. And it is hereby enacted, that no writ or process shall, at any time, be sued forth or prosecuted against the person, goods, or property of His Highness the Nabob of the Carnatic, or of the Nabob Regent for the time being, or of any person whose name shall be included in any list so published in the Gazette as aforesaid, and which, for the time being, shall be in force and effect for the purpose of this Act, unless such writ or process shall be so sued forth or prosecuted with the consent of the Governor in Council of Fort St. George first had and obtained, such consent to be testified by the signature of the secretary, or one of the secretaries of Government, and that any writ or process which shall, at any time, be sued forth or prosecuted against the person, or goods, or property of His said Highness, or of the Nabob Regent, or of any such person as aforesaid, without such consent as aforesaid, so testified as aforesaid, shall be utterly null and void.

List of exempted persons to be furnished to Governor-General in Council

III. And it is hereby enacted and directed, that the said Governor in Council of Fort St. George shall, from time to time, cause to be furnished to the Governor-General of India in Council, copies of any and every list which shall be so published as aforesaid, and shall conform to and follow any directions which he may, from time to time, receive from the

Governor-General of India in Council respecting the persons to be included in any such list from time to time, and otherwise with respect to the matters which are the subject of this Act. And also that the said Governor in Council of Fort St. George shall, from time to time, cause every list, which shall be published in the Gazette as aforesaid, to be also otherwise published in such manner as shall be deemed proper and sufficient for the purpose of making the same generally known.

This Act not to affect any treaty made with the Nabob of the Carnatic.

IV. And it is hereby enacted and provided, that this Act shall not be construed or be held to be in way declaratory or explanatory of the meaning or effect of any treaty made or entered into with His Highness the Nabob of the Carnatic, and shall not be construed either to enlarge or restrict the operation of any such treaty, and that independently of this Act, His Highness the Nabob of the Carnatic, and the Nabob Regent for the time being, and their respective families, dependants, and retinue, shall be entitled to claim, maintain, and enjoy any privilege which, by virtue of any such treaty or otherwise, they may be rightfully entitled to.

A.D. 1844. ACT II.

AN ACT *respecting the Expense of preparing Copies of Proceedings in Appeals:* PASSED *by the Honourable the President of the Council of India in Council, on the* 17*th February*, 1844, *with the assent of the Right Honourable the Governor-General of India.*

Preamble.

WHEREAS it is just and necessary that the expense of preparing copies in the English language of the proceedings in cases appealed to the Queen in Council, as now required by Section V., Regulation XVI., 1797, and Section XXXIV., Regulation V., 1803, of the Bengal code, Section V., Regulation VIII. of 1818, of the Madras code, and Clause Sixth, Section C, of Regulation IV. of 1827, of the Bombay code, should be borne by the parties prosecuting those appeals:

The expense of copying and translating papers in appeals to the Queen in Council to be paid by appellants.

I. IT is hereby enacted, that in all cases of appeals to the Queen in Council from judgments delivered by the Courts of Sudder Dewanny Adawlut at Fort William, Fort St. George, Bombay, and at Allahabad, the expense of preparing two copies of all the proceedings held, and judgments or orders given in the case appealed, including the whole of the evidence and documents, and of translating into the English language such of the aforesaid proceedings, as may have been originally drawn out in the country languages, shall be defrayed by the parties prosecuting the appeal.

Sudder to require a deposit for such ex-

II. And it is hereby further enacted, that the Courts of Sudder

Dewanny Adawlut are empowered and required to cause the deposit by the appellant, within the time allowed for furnishing security for costs of appeal, of such a sum as shall be sufficient to cover the expense of making the two aforesaid copies, and when such deposit shall have been made, and not till then, to declare the appeal admitted, and to give notice thereof to the appellant and respondent respectively.

pense, as a preliminary to admission of appeal.

A.D. 1844. ACT V.

AN ACT *for the Suppression of all Lotteries not authorized by Government:* PASSED *by the Right Honourable the Governor-General of India in Council, on the 2nd March,* 1844.

WHEREAS great mischief has been found to result from the existence of lotteries:

Preamble.

I. It is hereby enacted, that in the territories subject to the Government of the East-India Company, all lotteries not authorized by Government shall, from and after the 31st day of March, 1844, be deemed, and are hereby declared, common and public nuisances and against law.

Lotteries declared illegal.

II. And it is hereby enacted, that from and after the day aforesaid, no person shall, in the said territories, publicly or privately, keep any office or place for the purpose of drawing any lottery not authorized by Government, or shall have any such lottery drawn, or shall knowingly suffer any such lottery to be drawn in his or her house; and any person so offending shall, for every such offence, upon conviction before a justice of the peace, or magistrate, be punished by fine not exceeding 5,000 rupees.

Penalty for keeping lotteries without sanction of Government.

III. And it is hereby enacted, that from and after the day aforesaid, no person shall, under any pretence, device, or description whatsoever, agree to pay any sum, or to deliver any goods, or to do, or forbear doing, any thing for the benefit of any person, whether with or without consideration, on any event or contingency relative or applicable to the drawing of any ticket, lot, number, or figure in any such lottery, or shall publish any proposal for any of the purposes aforesaid; and any person offending in any of the matters mentioned in this section shall for every such offence, upon conviction before a justice of the peace, or magistrate, be punished by fine not exceeding 1,000 rupees.

Punishment for acting in aid of lotteries.

IV. And it is hereby enacted, that every fine which shall be incurred under the provisions of this Act shall be applied one-half to the use of Government, and the other half to the use of the informer or informers.

Half of fine to Government and half to informer.

A.D. 1844. ACT VI.*

AN ACT *for abolishing the Levy of Transit or Inland Customs Duties, for revising the Duties on Imports and Exports by Sea, and for determining the Price at which Salt shall be sold for Home Consumption within the Territories subject to the Government of Fort St. George:* PASSED *by the Right Honourable the Governor-General of India in Council, on the* 16*th March,* 1844.

Rescinding all regulations of the Madras code imposing inland, transit, and town duties.

I. IT is hereby enacted, that from the 1st day of April, 1844, such parts of Regulation X. of 1803, Regulation I. of 1812, Regulation III. of 1812, Regulation VI. of 1812, and Regulation III. of 1821, of the Madras code, and all such parts of any Regulations of the said code as prescribe the levy of transit or inland customs duties at any town or place within the limits of the Presidency of Fort St. George, shall be repealed.

Rescinding regulations of the Madras Code imposing sea-customs duties, with certain exceptions.

II. And it is hereby enacted, that Regulation IX. of 1803, with exception of Sections LV. to LXX., both inclusive; Regulation XI., 1803, Regulation XIV. of 1808, Regulation XV. of 1808, with exception of Section V.; Regulation II. of 1812, with exception of Sections XV. and XVII.; Regulation IV. of 1812, and such parts of Regulation I. of 1813, of the same code, as relate to the rates of duty and drawback on spirituous liquors imported or exported by sea; also Regulation II. of 1816, Regulation II. of 1818, Regulation III. of 1818, Regulation IV. of 1819, and Regulation VII. of 1819, together with the schedules appended thereunto, excepting in so far as any of these Regulations rescind any former Regulations, either in part or in whole, of the Madras code; and likewise the provisions of any kind contained in the foregoing or any other Regulations of the Madras code, for fixing the amount of duty to be levied on goods imported or exported by sea, at any place within the limits of the Presidency of Fort St. George, or the drawback payable on the same, shall be repealed.

Proviso.

III. Provided always, that nothing contained in the two preceding sections of this Act shall be construed to prevent the levy of any municipal tax, or of any toll on any bridge, road, canal, pier, or causeway, for repair and maintenance of the same; or of any fee for the erection and maintenance of light-houses.

Duties to be levied on goods imported by sea into the Presidency of Fort St. George.

IV. And it is hereby enacted, that duties of customs shall be levied on goods imported by sea into any place within the territories subordinate to the Government of the Presidency of Fort St. George, after the said 1st day of April, 1844, according to the rates specified in Schedule (A) annexed to this Act, with the exceptions specified therein,

* It is enacted by Act IX., 1845, that so much of the provisions of this Act as have reference to those parts of Schedule (A) which are repealed by that Act shall be held to have reference to the Schedule (A) annexed to the said Act IX., 1845.

and the Schedule, with the notes attached thereto, shall be taken to be a part of this Act.

V. And it is hereby further enacted, that duties of customs shall be levied upon country goods exported by sea from any ports of the Presidency of Fort St. George, after the said 1st day of April, 1844, according to the rates specified in Schedule (B) annexed to this Act, with the exceptions therein specified; and the said Schedule, with the notes attached thereto, shall also be taken to be a part of this Act.

Duties to be levied on goods exported by sea from the Presidency of Fort St. George.

VI. And it is hereby enacted, that duties of customs shall be levied on goods passing by land into or out of foreign European settlements, situated on the line of coast within the limits of the Presidency of Fort St. George, at the rates prescribed in the schedules of this Act for goods imported or exported on foreign bottoms at any British port in that Presidency.

Duties to be levied on goods passing by land into or out of foreign European settlements adjacent to the Presidency of Fort St. George.

VII. And it is hereby enacted, that it shall be lawful for the Governor in Council of the Presidency of Fort St. George to declare, by notice to be published in the Gazette of that Presidency, that the territory of any Native Chief not subject to the jurisdiction of the courts and civil authorities of that Presidency, shall be deemed to be foreign territory, and to declare goods passing into or out of such territory liable either to the duty fixed for British or for foreign bottoms, as the said Governor in Council may think fit.

The Governor in Council may declare, by notice in the Gazette, the territory of Native Chiefs beyond the jurisdiction of the courts to be foreign.

VIII. And it is hereby enacted, that for the levy of duties of customs as above provided on goods exported by land to, or imported by land from, such foreign territories, customs chokees may be established at such places as may be determined by the said Governor in Council; and every officer at every such chokee shall have power to detain goods passing into, or out of, any such foreign territory, and to examine and ascertain the quantities and kinds thereof; and such goods shall not be allowed to pass across the frontier line, out of, or into, the territory of the East-India Company, until the owner or person in charge thereof shall produce and deliver a certificate showing that the customs duty leviable thereupon has been paid in full.

Customs chokees may be established for the levy of duties on goods passing into or out of foreign territory.

Powers of officers at such chokees.

Goods not to be allowed to pass across the frontier line without a certificate of the duty thereon having been paid in full.

IX. And it is hereby enacted, that it shall be lawful for the said Governor in Council to appoint such officers as he may think fit to receive money on account of customs duties, and grant certificates of the payment thereof, and that such a certificate being delivered to any chokee officer shall entitle goods to cross the frontier into or out of the East-India Company's territories, provided that the goods correspond in description with the specification thereof contained in such certificate, and that the certificate show the entire amount of duty leviable on those goods to have been duly paid; and if upon examination the goods brought to any chokee be found not to correspond with the specification entered in the certificate presented with the same, the difference shall be noted on the face of the certificate, and if the payment of duty certified therein shall not cover the entire amount of duty leviable on the goods as ascertained at such

The Governor in Council may appoint officers to collect duties and to grant certificates of payments.

If goods be found not to correspond with certificate, the difference to be noted on the face of the certificate, and if the duty have not been duly paid, the

goods to be detained until a further certificate be produced.

examination, the goods shall be detained until a further certificate for the difference shall be produced.

The appointments of officers to receive customs duties on the frontier to be notified in the official Gazette.

Officers so appointed bound to grant certificates on receipt of the proper duty.

X. And it is hereby enacted, that the said Governor in Council shall give public notice, in the official Gazette of the Presidency of Fort St. George, of the appointment of every officer appointed to receive customs duties on goods crossing the land frontier of the said foreign territories; and the officers so appointed shall, on receipt of money tendered as customs duty, be bound to give to any merchant or other person applying for the same a certificate of payment, and to enter therein the specification of goods, with the values and description thereof, according to the statement furnished by the person so applying; provided only, that the proper duty leviable thereupon, according to the descriptions and values stated, be covered by the payment made.

Certificates not to bear date more than thirty days before the arrival of the goods.

Proviso.

XI. And it is hereby enacted, that no certificate shall be received at any chokee that shall bear date more than thirty days before the date when the goods arrive at the chokee. Provided, however, that any person who has taken out a certificate from any authorized receiver of customs duties, shall at any time within the said period of thirty days, on satisfying such receiver that such certificate has not been used, and on delivering up the original, be entitled to receive a renewed certificate, with a fresh date, without further payment of duty.

The Governor in Council to notify in official Gazette by what routes goods may cross the land frontier.

After which goods brought by other routes to be liable to detention or confiscation.

XII. And it is hereby enacted, that it shall be lawful for the said Governor in Council to prescribe by public notice in the official Gazette of the Presidency of Fort St. George, by what routes goods shall be allowed to pass into or out of any such foreign territory, as is described in Sections VI. and VII. of this Act; and after such notice shall be given, goods which may be brought to any chokee established on other routes or passes than those so prescribed, shall, if provided with a certificate, be sent back; and if not provided with a certificate shall be detained, and shall be liable to confiscation by the collector of customs, unless the person in charge thereof shall be able to satisfy the said collector that his carrying them by that route was from ignorance or accident.

Goods crossing frontier clandestinely to be confiscated.

XIII. And it is hereby enacted, that goods which may be passed, or which an attempt may be made to pass, across any frontier guarded by chokees, between sunset and sunrise, or in a clandestine manner, shall be seized and confiscated.

Penalty for officer permitting goods to cross the frontier without certificate or by prohibited route.

XIV. And it is hereby enacted, that any chokee officer who shall permit goods to pass across the frontier when not covered by a sufficient certificate, or who shall permit goods to pass by any prohibited route, shall be liable, on conviction before the collector of customs, to imprisonment for a term not exceeding six months, and to a fine not exceeding five hundred rupees, commutable, if not paid, to imprisonment for a further period of six months.

Penalty for a chokee officer needlessly and vexatiously injuring

XV. And it is hereby enacted, that if any chokee officer shall needlessly and vexatiously injure goods under the pretence of examination, or in the

course of his examination, or shall wrongfully detain goods for which there shall be produced a sufficient certificate, such officer shall, on conviction before the collector of customs, or before any magistrate or joint magistrate, be liable to imprisonment for a term not exceeding six months, and to fine not exceeding five hundred rupees, commutable, if not paid, to imprisonment for a further period of six months.

goods or wrongfully detaining them.

XVI. And it is hereby enacted, that all goods imported by sea into any port of the Presidency of Fort St. George from any foreign European settlement in India, or from any native state, the inland trade of which has been declared by the Governor in Council of the Presidency of Fort St. George, under Section VII. of this Act, to be subject to the duties levied on foreign bottoms, shall be liable to the same duties as are imposed by Schedule (A) on imports on foreign bottoms.

Goods imported by sea from foreign European settlements or Native States declared foreign, to be liable to duties leviable on foreign bottoms.

XVII. And it is hereby enacted, that no goods whatsoever entered in either of the schedules of this Act, as liable to duty, shall be exempted from the payment of such duty or of any part thereof, except under special order from the Governor in Council of the Presidency of Fort St. George. Provided always, that it shall and may be lawful for the collector of customs, or other officer in charge of a custom-house, to pass free of duty any baggage in actual use at his discretion; and if any person shall apply to have goods passed as such baggage, the collector acting under the orders of the Government shall determine whether the baggage be in actual use, or goods subject to duty under the provisions of this Act.

No dutiable goods entered in either of the Schedules of this Act to be exempted unless under special order of Government.

Proviso.

XVIII. Provided always, that when goods are imported at any port of the Presidency of Fort St. George, from any other port in that Presidency, under certificate that the export duty specified in Schedule (B) has been duly paid thereon, or that there has been a re-export, and that the import duty specified in Schedule (A) has been duly paid, the said goods shall be admitted to free entry.

Proviso under which goods may be imported duty free from any other Madras port.

XIX. Provided also, that when duties of customs shall have been paid on any goods at any port in any part of the territories of the East-India Company not subject to the Presidency of Fort St. George, and such goods shall subsequently be imported at any port of the Presidency of Fort St. George, credit shall be given at such last-mentioned port for the sum that may be proved by the production of due certificates to have been so paid.

Further proviso, under which credit may be given at any Madras port for duties paid in any other British Indian port.

XX. And it is hereby enacted, that it shall be lawful for the Governor in Council of the Presidency of Fort St. George, from time to time, by notice in the official Gazette of that Presidency, to fix a value for any article or number of articles liable to ad valorem duty, and the value so fixed for such articles shall, till altered by a similar notice, be taken to be the value of such articles for the purpose of levying duty on the same.

The Governor in Council to notify in the official Gazette the valuation of articles liable to ad valorem duty.

XXI. And it is hereby enacted, that when goods liable to duty, for which a value has not been fixed by such a notice as is above directed, or

When no value has been fixed or declared, duty to be levied ac-

cording to the market value.

for which a fixed duty has not been declared by the Schedule annexed to this Act, are brought to any custom-house in the Presidency of Fort St. George, for the purpose of being passed for importation or exportation, the duty leviable on such goods shall be levied ad valorem, that is to say, according to the market value of such goods at the place and time of importation or exportation, as the case may be.

The market value, how and by whom to be declared.

Application to be made in writing for the passing of goods through the custom-house.

What the application is to contain.

XXII. And it is hereby enacted, that the market value for assessment of duties on ad valorem goods shall be declared by the owner, consignee, or exporter, or by the agent or factor for any of these respectively, upon the face of the application to be given in by him in writing for the passing of the goods through the custom-house, and the value so declared shall include the packages or materials in which the goods are contained, and the application shall truly set forth the name of the ship in which the goods have been imported or are to be exported, the name of the master of the said ship, the colours under which the said ship sails, the number, description, marks, and contents of the packages, and the country in which the goods were produced.

Declaration of market value to be submitted to appraising officer.

The collector of customs empowered to purchase undervalued goods at the price so declared.

Payment for the goods, when and how to be made.

XXIII. And it is hereby enacted, that every such declaration, when duly signed, shall be submitted to the officer of customs appointed to appraise goods at the custom-house, and if it shall appear to him that the same is correct, he shall countersign it as admitted; but if any part or the whole of the goods shall seem to him to be undervalued in such declaration, he shall report the same to the collector of customs, who shall have power to take the goods, or any part thereof, as purchased for the Government at the price so declared; and whenever the collector of customs shall so take goods for the Government, payment thereof shall be made to the consignee or importer, if the goods be imported goods, within fifteen days from the date of the declaration, the amount of import duty leviable thereon being first deducted, and if the goods be intended for exportation, the entire value as declared shall be paid without deduction on account of customs duty.

Government to notify in the official Gazette the ports for landing and shipping merchandise. Goods landing at other ports to be confiscated.

XXIV. And it is hereby enacted, that it shall be lawful for the Governor in Council of the Presidency of Fort St. George to declare, by public notice in the official Gazette of that Presidency, what places within the same shall be ports for the landing and shipment of merchandise; and any goods that may be landed, or which an attempt may be made to land, at any other port than such as shall be so declared, shall be seized and confiscated.

Manifests of cargo to be sent in by masters of vessels on arrival.

The Governor in Council may appoint

XXV. And it is hereby enacted, that when any vessel shall arrive in any port of the Presidency of Fort St. George, the master shall deliver a true manifest of the cargo on board, made out according to the form annexed to this Act and marked C, to the first person duly empowered to receive such manifest that may come on board; and if no such person shall have come on board before the anchor of the said vessel is dropped, then the manifest shall be forwarded to land on board of the first boat that leaves the vessel after dropping anchor; and if the port be up a river or at a distance from the land first made, then it shall be lawful for the said

Governor in Council, by an order published in the official Gazette of the Presidency, to fix a place in any such river or port beyond which place it shall not be lawful for any inward-bound vessel, except such country craft as are described in Sections LIV. and LV. of this Act, to pass until the master shall have forwarded in such manner as may be ordered by the said Governor in Council such a manifest as is required by this Act.

places beyond which no inward-bound vessel may pass until the master have forwarded his manifest of cargo

Excepting certain country craft.

XXVI. And it is hereby enacted, that if the manifest so delivered by the master shall not contain a full and true specification of all the goods imported in the vessel, the said master shall be liable to a fine of one thousand rupees, and any goods or packages that may be found on board in excess of the manifest so delivered, or differing in quality or kind, or in marks and numbers from the specification contained therein, shall be liable to be seized by any customs officer and confiscated, or to be charged with double or such increased duties as may be determined by the collector of customs under the orders of Government.

Penalty for a master delivering a manifest not containing a full and true specification of cargo.

XXVII. And it is hereby enacted, that if any inward-bound vessel shall remain outside or below the place that may be fixed by the said Governor in Council for the first delivery of manifests, the master shall deliver a manifest, as hereinbefore prescribed, to the first person duly empowered to receive such manifest that may come on board, and if any vessel entering a port for which there is a custom-house established shall lie at anchor there for the space of twenty-four hours, the master whereof shall refuse to deliver the said manifest in the manner above prescribed, he shall, for such refusal, be liable to fine not exceeding one thousand rupees, and no entry or port clearance shall be given for such vessel until the fine is paid.

Masters of inward-bound vessels remaining outside of the places fixed by the Governor in Council required to deliver manifests

Penalty for the master of a vessel refusing to deliver a manifest.

XXVIII. And it is hereby enacted, that no vessel shall be allowed to break bulk until a manifest as required by this Act, and another copy thereof to be presented at the time of applying for entry inwards, if so required by the collector of customs, shall have been received by the said collector, or until order shall have been given by the said collector for the discharge of the cargo; and that the said collector may further refuse to give such order if he shall see fit until any port clearances, cocketts, or other papers, known to be granted at the places from which the vessel is stated to have come, shall likewise be delivered to him.

No vessel to break bulk until the collector of customs have received ship's papers.

XXIX. And it is hereby enacted, that no goods shall be allowed to leave any vessel, or to be put on board thereof, until entry of the vessel shall have been duly made in the custom-house of the port, nor until order shall have been given for discharge of the cargo thereof, as above provided; and it shall be the duty of every customs officer to seize as contraband any goods which have been removed or put on board of any vessel in contravention of the above provision, or which any attempt shall have been made to remove from, or to put on board of, any vessel in contravention of the above provision. And after entry of the vessel at the custom-house in due form, such part of the cargo as may not be declared for re-exportation in the same vessel shall be sent to land, and export cargo shall be laden on board according to the forms and rules that may be

Goods moved from or put on board of any vessel without due entry in the custom-house or, permission for discharge of cargo, to be seized as contraband.

After entry in due form, cargo not declared for re-exportation may be landed, and export cargo laden.

prescribed for the port by this Act, or by order of the Governor in Council of the Presidency of Fort St. George, and if an attempt be made to land or put on board goods or merchandise in contravention of the forms and rules so prescribed, the goods shall be liable to seizure and confiscation.

Goods liable to seizure and confiscation if attempted to be landed or put on board in contravention of this Act.

Penalty on master if cargo do not correspond with his manifest, or if goods sent out of the vessel be not landed at the prescribed places.

XXX. And it is hereby enacted, that if goods entered in the manifest of a vessel shall not be found on board that vessel, or if the quantity found be short and the deficiency be not duly accounted for, or if goods sent out of the vessel be not landed at the custom-house, or at such other place as the collector of customs shall have prescribed, the master shall be liable to a penalty not exceeding five hundred rupees for every missing or deficient package of unknown value, and for twice the amount of duty chargeable on the goods deficient and unaccounted for, if the duty can be ascertained. Provided, however, that nothing herein contained shall be construed to prevent the collector of customs from permitting, at his discretion, the master of any vessel to amend obvious errors, or to supply omissions from accident or inadvertence by furnishing an amended or supplemental manifest.

Provision for the amendment of obvious errors in manifests of cargo.

One or more places in every port to be appointed for the landing and shipment of goods.

XXXI. And it is hereby enacted, that there shall in every port of the Presidency of Fort St. George be one or more places appointed for the landing and shipment of goods, and goods shall not be landed at or shipped from any other place without the special order in writing of the collector of customs for the port; and if any goods be landed, or an attempt be made to land any goods, at any other than the said authorized places, or if any goods be shipped, or an attempt be made to ship any goods, from any others than the said authorized places without such order, they shall be seized and confiscated.

Goods landing at or shipping from any other place without special permission to be confiscated.

The Governor in Council may license boats for landing and shipping merchandise: and, after notification, goods found on any other boats to be liable to confiscation.

XXXII. And it is hereby enacted, that if the Governor in Council shall see fit, for the security of customs at any port, to maintain special establishments of boats for the landing and shipping of merchandise, or to license and register the cargo-boats plying in any ports, then, after due notification thereof, it shall not be lawful for any person to convey goods to or from any vessel in such port, otherwise than in the boats so authorized and prescribed, except under special permit from the collector of customs at the port, and any goods that may be found on board of other boats than those so authorized for the port shall be liable to be seized by an officer of customs, and shall be liable to confiscation.

Excepting under special permit from the collector of customs.

After due notification by Government, the collector of customs empowered to station customs officers on board of any vessel.

XXXIII. And it is hereby enacted, that when the Governor in Council of the Presidency of Fort St. George shall see fit to maintain at any port an establishment of officers to be sent on board of vessels to watch their unlading and lading, then, after due notification shall have been given that such establishment is so maintained at any port, the collector of customs at that port shall have power at his discretion to send one or more officers of such establishment to remain on board of any vessel in such port by night and by day, until the vessel shall leave the port, or it shall be otherwise ordered by the collector.

Penalty for the master of the vessel refusing

XXXIV. And it is hereby enacted, that any master of such vessel at

such port who shall refuse to receive such officer with one servant on board, when such officer shall be so deputed as above provided, or shall not afford such officer and such servant suitable shelter and sleeping accommodation while on board, and likewise furnish them with a due allowance of fresh water, if necessary, and with the means of cooking on board, shall be liable to a fine not exceeding the sum of one hundred rupees for each day during which such officer and servant shall not be received and provided with suitable shelter and accommodation.

to receive and accommodate such officer.

XXXV. And it is hereby enacted, that whenever a collector of customs shall see cause to direct that any vessel shall be searched, he shall issue his warrant or written order for such search addressed to any officer under his authority, and upon production of such order the officer bearing it shall be competent to require any cabins, lockers, or bulk-heads to be opened in his presence, and if they be not opened upon his requisition, to break the same open, and any goods that may be found concealed, and that shall not be duly accounted for to the satisfaction of the collector of customs, shall be liable to confiscation; and any master or person in charge of a vessel who shall resist such officer, or refuse to allow the vessel to be searched when so ordered by the collector of customs, shall be liable, upon conviction, for every such offence, to a fine of one thousand rupees.

Collector of customs may issue warrant to search any vessel.

Powers of an officer bearing such warrant.

Penalty for any master of a vessel resisting officer with warrant for search.

XXXVI. And it is hereby enacted, that every master of a vessel who shall remove from such vessel or put on board thereof any goods, or cause or suffer any goods to be removed from thence or put on board thereof, between sunset and sunrise, or on any day when the custom-house is closed for business, without leave in writing obtained from the collector of customs, shall be punished with a fine not exceeding five hundred rupees.

Penalty for a master removing or putting on board goods between sunset and sunrise, or when the custom-house is closed, without leave from collector.

XXXVII. And it is hereby enacted, that no cargo-boat laden with goods intended for exportation by sea shall make fast to, or lie alongside of, any vessel on board of which there shall be a customs officer stationed, unless there shall be on board the boat, or have been received by the said customs officer, a custom-house permit or order for the shipment of the goods; and the goods on board of any boat that may so be alongside or be made fast to a vessel, if such goods be not covered by a custom-house pass accompanying them, or previously received by the customs officer on board the said vessel, shall be liable to confiscation.

Export cargo-boats without permits not allowed to lie alongside vessels on which customs officers are stationed.

Goods on such boats if not covered by a pass to be liable to confiscation.

XXXVIII. And it is hereby enacted, that when goods shall be sent from on board of any vessel having a customs officer on board for the purpose of being landed and passed for importation, there shall be sent with each boat-load or other separate despatch a boat note, specifying the number of packages, and the marks and numbers or other description thereof, and such boat note shall be signed by an officer of the vessel, and likewise by the customs officer on board; and if any imported goods be found in a boat proceeding to land from such a vessel without a boat note, or if being accompanied by a boat note they be found out of the proper track between the ship and the proper place of landing, the boat containing such goods may be detained by any officer of customs duly authorized by

In the removal of goods from on board any vessel, a boat note to be sent with each separate despatch.

Goods liable to confiscation if found without a boat note, or out of the track between the vessel and the proper place of landing.

the collector, and unless the cause of deviation be explained to the satisfaction of the collector of customs, the goods shall be liable to confiscation.

Goods brought to be passed through the custom-house if not corresponding with the description in the application liable to confiscation

XXXIX. And it is hereby enacted, that when the goods shall be brought to be passed through the custom-house either for importation or exportation by sea, if the packages in which the same may be contained shall be found not to correspond with the description of them given in the application for passing them through the custom-house—or if the contents thereof be found not to have been correctly described in regard to sort, quality, or quantity—or if any goods not stated in the application be found concealed in or mixed up with the specified articles, all such packages, with the whole of the goods contained therein, shall be liable to confiscation.

Goods liable to confiscation if removed with fraudulent intention after landing and before passing through the custom-house

XL. And it is hereby enacted, that if any person after goods have been landed, and before they have been passed through the custom-house, removes, or attempts to remove them, with the intention of defrauding the revenue, the goods shall be liable to confiscation, unless it shall be proved to the satisfaction of the collector of customs, that the removal was not sanctioned by the owner or by any person having an interest in or power over the goods.

Collector of customs may require goods in bulk to be weighed or measured before landing, and levy duty accordingly

XLI. And it is hereby enacted, that it shall be lawful for the collector of customs, whenever he shall see fit, to require that goods brought by sea and stowed in bulk shall be weighed or measured on board ship before being sent to land, and to levy duty according to the result of such weighing or measurement.

Rescinding Clause Second, Section XI, of Regulation I of 1805 of the Madras code

XLII. And it is hereby enacted, that Clause Second, Section XI. of Regulation I. of 1805 of the Madras Code, shall be repealed.

Fixing the price to be paid for salt within the Presidency of Madras.

XLIII. And it is hereby enacted, that the price to be paid by the purchasers of salt to the Government of the Presidency of Fort St. George, for salt that may be manufactured and sold under the orders of the Governor in Council for consumption within the territories subordinate to the Presidency of Fort St. George, shall, subsequent to the date specified in Section I. of this Act, be one Company's rupee and eight annas for every maund of 3,200 tolas weight of salt.

The Governor-General in Council empowered to grant a remission of this price.

XLIV. And it is hereby enacted, that it shall be competent to the Governor-General of India in Council to grant a remission of the price specified in the last preceding section of this Act, in cases in which it may appear that the grant of such remission is expedient.

Salt having paid the home consumption price may be landed free at any other Madras port under certificate

XLV. And it is hereby enacted, that on application by the exporter of any salt that has paid the full price fixed to be paid for salt sold for home consumption under the provisions of Section XLIII. of this Act, a certificate shall be granted by the collector of customs at the place of export, under authority of which certificate the quantity of salt specified therein shall be landed at any other port of the said Presidency of Fort St. George, and shall be passed from such port under the proper passes applicable to

the free passage of salt into the interior, without the levy of any further duty of customs.

XLVI. And it is hereby enacted, that when a customs officer shall be sent on board of any vessel to superintend the delivery of cargo, twenty days, exclusive of Sundays and holidays, shall be allowed for the discharge of the import cargo of vessels not exceeding six hundred tons burthen, and thirty days, exclusive of Sundays and holidays, for the discharge of the import cargo of vessels exceeding that burthen, and the said periods shall be calculated from the day when the customs officer first went on board. And if the whole cargo be not discharged by the expiration of the abovementioned periods, the master shall be charged with the wages of such officer, and other expenses, for any further period that such officer may be detained on board. And if the owners, importers, or consignees do not bring their goods to land within the periods above fixed, it shall be the duty of the master so to do.

Limited period allowed for discharge of import cargo of vessel on which customs officer may be stationed.

XLVII. And it is hereby enacted, that when there shall be no customs officer sent aboard vessels discharging cargo, it shall be lawful for the collector of customs to fix a period, not being less than twenty days, for the discharge thereof and clearance of the vessel inwards; and if any goods remain on board after the time so fixed, or after the time allowed in the last preceding section of this Act, the collector may order the same to be landed and warehoused for the security of the duties chargeable thereon, and of any freight and primage and other demands that may be due thereon, giving his receipt to the master for the same. Provided always, that in all cases it shall be lawful for the collector or other officer in charge of the custom-house, with the consent of the master of the vessel, to cause any packages to be brought on shore and to be deposited in the Government warehouses for the security of the duties and charges thereon, although twenty days may not have expired from the entry of such vessel; and in case any goods brought to land from any vessel be not claimed and cleared from the custom-house within three months from the date of entry of the ship in which such goods were imported, it shall be competent to the collector to sell the same on account of the duties and other charges due thereon, and the balance remaining after deducting the said duties and charges shall be held in deposit and paid to the owner on application.

Limited period allowed for discharging cargo from any vessel without a customs officer on board.

Goods remaining on board after period allowed, to be landed and warehoused by order of collector

Customs collector, with consent of master of vessel, may cause any packages to be deposited in the Government warehouses

The collector empowered to sell goods if not cleared from custom-house within period specified.

XLVIII. And it is hereby enacted, that when a customs officer shall be sent on board of any vessel discharging cargo, a further period of fifteen days, Sundays and holidays excluded, beyond the twenty days above specified, shall be allowed for putting on board export cargo if the vessel shall not exceed six hundred tons burthen, and twenty days if it exceed that burthen, when the lading and unlading thereof shall be continuous, and the master or commander shall in such case not be charged with the wages and expenses of the customs officer on board until after the expiration of such additional period: and if a vessel having discharged its import cargo shall be laid up, the customs officer on board shall certify that no goods remain on board except necessary stores and articles for use, and when a vessel so laid up shall be entered at the custom-house for

Limited period allowed for putting export cargo on board of any vessel.

receipt of export cargo, a customs officer shall be sent on board, and if the said last-mentioned officer shall certify that no goods are on board, except as above excepted, twenty days, exclusive of Sundays and holidays, as above, shall be allowed from the date of such certificate for the lading outwards of a vessel not exceeding six hundred tons, and thirty days for vessels exceeding that burthen; after which periods respectively the master shall be charged with the wages and expenses of the customs officer on board to the date of the vessel's sailing from the port.

Penalty for putting goods on board a vessel after customs officer's removal therefrom and before a customs officer have again been placed thereon.

XLIX. And it is hereby enacted, that when upon application from the master of any vessel the customs officer shall be removed from on board thereof, under the provisions to that effect contained in the last preceding section of this Act, if the master of such vessel shall, before a customs officer have again been placed in such vessel, put on board of such vessel, or cause or suffer to put on board of such vessel, any goods whatever, such master shall be punished with a fine not exceeding one thousand rupees, and the goods shall be liable to be re-landed for examination at the expense of the shippers, upon requisition to that effect from the collector of customs.

A port clearance to be granted to the master of every vessel on certificate of all public demands against him having been satisfied.

L. And it is hereby enacted, that a port clearance shall be granted by the collector of customs or other authorized officer to the master or commander of every vessel clearing out from the ports of the Presidency of Fort St. George, provided such master or commander shall have complied with the terms prescribed by this Act, and with the rules of the port concerned, and shall produce a certificate, from the proper officer or officers, of all port charges and public demands against him, of whatever nature, having been duly paid and discharged.

Rules for levying duty on goods passed through custom-house for shipment after grant of port clearance.

LI. And it is hereby enacted, that upon any goods liable to duty that may be passed through the custom-house for shipment, the application for which shall be presented after port clearance shall have been taken out, double of the prescribed duty shall, in all cases, be levied; and if the goods be free, or have already paid import duty, or have been imported free under certificate, five per cent. upon the market value shall be levied thereon; or if the same be imported goods entitled to drawback, the drawback shall be forfeited, but no separate duty shall be levied on drawback goods.

Cargo of vessels putting back from stress of weather or damage and compelled to re-land cargo, to be taken charge of by customs officers and lodged in such place as the collector may direct.

LII. And it is hereby enacted, that when a vessel having cleared out from any port shall put back from stress of weather, or it shall, for any damage or from other cause, be necessary that the cargo of a vessel that has cleared out shall be unshipped or re-landed, a customs officer shall be sent to watch the vessel and take charge of the cargo during such re-landing or removal from on board, and the goods on board such vessel shall not be allowed to be transhipped or re-exported free of duty, by reason of the previous settlement of duty at the time of first export, unless the goods shall be lodged in such place as shall be allowed by the collector of customs, and shall remain while on land, or while on board of any other vessel, under special charge of the officers of customs until the time of re-export; and all charges attending such custody shall be borne by the

exporter. Provided, however, that in all cases of return to port after port clearance, on account of damage or for stress of weather, it shall be lawful for the owner, or for the master, to enter the vessel and land the cargo under the rules for the importation of goods, and the export duty shall, in that case, be refunded, and the amount paid in drawback be reclaimed; and if the goods on account of which drawback has been paid be not found on board the vessel, the master shall be liable to a fine not exceeding the entire value thereof, unless he account for them to the satisfaction of the collector of customs.

Proviso, under which the cargo may be landed as imported goods and the export duty refunded.

Penalty for a master putting back into port without goods on which drawback has been allowed.

LIII. And it is hereby enacted, that when goods shall be re-landed before the lading of any vessel is complete, and before port clearance has been granted, the duty levied upon such goods shall be returned to the exporter, but no refund shall be made of duty paid on the export of any goods, after port clearance shall have been granted for the vessel on which the goods were exported, unless the vessel shall have put back for stress of weather or for damage, and the goods shall have been re-landed under the rule contained in the last preceding section of this Act.

Duty on goods re-landed before the lading is complete to be refunded, but not after grant of port clearance.

Unless the vessel have put back for stress of weather or damage.

LIV. And it is hereby enacted, that it shall be lawful for the said Governor in Council to establish rules for the anchoring of the coasting and country craft of the British territories, for the delivery of manifests of the cargo of such vessels, and for the landing of goods therefrom, and shipping of goods thereon, and that whoever being in charge of any such craft, shall knowingly contravene any such rule, shall be liable to a fine not exceeding one hundred rupees for each offence.

Penalty on coasting and country craft for contravening such rules as Governor in Council may lay down for their regulation

LV. And it is hereby enacted, that pattamars, dhonies, and other small craft from the Maldive or Laccadive islands, or from the native ports of Kattywar and Cutch, and of the Travancore and Cochin States, shall be treated in the ports of the Presidency of Fort St. George like the coasting craft of the British territory, provided that they conform to such special regulations as to the place of anchoring and mode of landing and shipping goods, as may be made by the Governor in Council for such vessels in the several ports of the Presidency of Fort St. George.

Specification of native craft to be treated like coasting craft of the British territories.

LVI. And it is hereby enacted, that no drawback shall be allowed on goods shipped on such native craft as are described in the last preceding section of this Act.

No drawback allowed on goods shipped on such native craft.

LVII. And it is hereby enacted, that the goods exported in the same vessels, if manifested for re-export, shall not be subject to import or export duty, and if any goods brought to any port in any vessel be transhipped in such port, they shall, in all cases, be subject to the same duty as if they had been landed and passed through the custom-house for re-exportation in the vessel into which they may be transhipped.

Goods re-exported in the same vessel not subject to duty Duty to be levied on transhipped goods as if they had been landed and re-exported.

LVIII. And it is hereby enacted, that no transhipment shall be made of any goods except under special order in writing from the collector of customs of the port, and that goods transhipped or attempted to be transhipped without such order shall be liable to confiscation.

Goods to be liable to confiscation if transhipped without special license from collector

Customs officer to superintend transhipment.

LIX. And it is hereby enacted, that an officer of customs shall, in all cases, be deputed to superintend the removal of goods from vessel to vessel.

The collector competent to adjudge confiscations.

LX. And it is hereby enacted, that in all cases in which, under this Act, goods are liable to confiscation, the collector of customs of the place where those goods may be shall be competent to adjudge such confiscation.

The collector may exact payment of fines before granting port clearance.

LXI. And it is hereby enacted, that if any person in charge of a vessel shall have become liable to any fine on account of any act or omission relating to customs, the collector of customs shall be competent, subject to the orders of the Governor in Council of the Presidency of Fort St. George, to refuse port clearance to such vessel until the fine shall be discharged.

Empowering collector of customs to decide upon cases of seizure and to adjudge damages.

LXII. And it is hereby enacted, that it shall be lawful for any collector of customs, or other officer who may be authorized to adjudicate customs cases, if he shall decide that a seizure of goods made under the authority of this Act was vexatious and unnecessary, to adjudge damages to be paid to the proprietor by the customs officer who made such vexatious seizure, besides ordering the immediate release of the goods; and if the proprietor accept such damages, no action shall thereafter lie against the officer of customs in any court of justice on account of such seizure: and if such adjudicating officer shall decide that the seizure was warranted, but shall deem that the penalty of confiscation is unduly severe, it shall be lawful for him to mitigate the same to the extent of the levy of double duty: and if the said officer shall adjudge confiscation, it shall further be lawful for him to order that from the proceeds of the sale of the goods, a proportion not exceeding one-half shall be distributed in rewards amongst such officers as he shall deem entitled thereto, and in such proportion as he may direct to each respectively.

To mitigate penalty of confiscation to the extent of the levy of double duty.

And to distribute part proceeds of sale of confiscated goods in rewards among seizing officers.

All officers of customs amenable to civil courts.

LXIII. And it is hereby enacted, that all officers of customs shall, as heretofore, be amenable to the civil courts of the Presidency of Fort St. George, by action, for damages on account of any executive acts done in their official capacity, at the suit of the parties injured by such acts. Provided, however, that no suit shall lie against a collector of customs or other officer for any judicial award in a matter of customs passed under the preceding section of this Act.

Proviso.

Penalty for obstructing customs officers in the exercise of their powers.

LXIV. And it is hereby enacted, that whoever intentionally obstructs any officer in the exercise of any powers given by this Act to such officer, shall be punished with imprisonment for a term not exceeding six months, or fine not exceeding one thousand rupees, or both.

Penalty for customs officer receiving consideration for doing or forbearing any official act.

LXV. And it is hereby enacted, that whoever, being an officer appointed under the authority of this Act, shall accept, or obtain, or attempt to obtain from any person any property as a consideration for doing or forbearing to do any official act, shall be punished with imprisonment for a term not exceeding two years, or fine, or both.

LXVI. And it is hereby enacted, that whoever, being an officer appointed under the authority of this Act, practises, or attempts to practise, any fraud for the purpose of injuring the customs revenue, or abets or connives at any such fraud, or at any attempt to practise any such fraud, shall be punished with imprisonment for a term not exceeding two years, or fine, or both.

Penalty for a customs officer concerned in defrauding the customs revenue.

LXVII. And it is hereby enacted, that whoever not being an officer appointed under this Act, or authorized by any Regulation to collect customs or duties, shall exact customs or duties of any denomination on any pretence whatsoever, whether as principal or agent, shall be punished with imprisonment for a term not exceeding two years, or fine, or both; and furthermore, shall be liable for such damages as may be obtained against him, on the suit of the party injured, by action in any of the civil courts of the Presidency of Fort St. George.

Penalty for exacting customs or duties without authority as a customs officer.

LXVIII. And it is hereby enacted, that it shall be lawful for the Governor in Council of Fort St. George, by an Order in Council, to transfer any of the powers given to a collector of customs by this Act to any other functionary, and to make any rules consistent with law for the carrying this Act into effect, and to establish such wharfs, and appoint such officers as he shall think fit, and to fix rates of wharfage and of rent to be paid for goods deposited or suffered to lie in the godowns of the custom-house.

The Governor in Council may transfer the powers of collector of customs to any other officer, and may make rules and appoint officers to carry this Act into effect, and fix rates of wharfage and rent.

SCHEDULE (A).*

Rates of Duty to be charged on Goods imported by Sea into any Port of the Presidency of Fort St. George.

No.	Enumeration of Goods.	When Imported on British Bottoms.	When Imported on Foreign Bottoms.
1	Bullion and Coin	Free.	Free.
2	Precious Stones and Pearls	Ditto.	Ditto.
3	Grain and Pulse other than Rice and Paddy	Ditto.	Ditto.
4	Rice and Paddy	2 annas per bag not exceeding 2 maunds of 80 tolas to the seer, or if imported otherwise than in bags, 1 anna per maund.	4 annas per bag not exceeding 2 maunds of 80 tolas to the seer, or if imported otherwise than in bags, 2 annas per maund.
5	Horses and other living Animals	Free.	Free.
6	Ice	Ditto.	Ditto.
7	Coal, Coke, Bricks, Chalk, Stones, (Marble and wrought Stones excepted)	Ditto.	Ditto.
8	Books printed in the United Kingdom or in any British Possession	Ditto.	3 per cent.
9	Foreign Books	3 per cent.	6 per cent.
10	*Marine Stores, the produce or manufacture of the United Kingdom or of any British Possession*	3 *per cent.*	6 *per cent.*
11	*Ditto ditto, the produce or manufacture of any other place or country*	6 *per cent.*	12 *per cent.*
12	*Metals, wrought or unwrought, the produce or manufacture of the United Kingdom or any British Possession*	3 *per cent.*	6 *per cent.*
13	*Metals, ditto ditto, excepting Tin, the produce or manufacture of any other place*	6 *per cent.*	12 *per cent.*
14	Tin, the produce of any other place than the United Kingdom or any British Possession	10 per cent.	20 *per cent.*
15	*Woollens, the produce or manufacture of the United Kingdom or any British Possession*	2 *per cent.*	4 *per cent.*
16	*Ditto, the produce of any other place or country*	4 *per cent.*	8 *per cent.*
17	Cotton Wool, not covered by Certificate of the payment of Export Duty at any other port of Fort St. George	9 As. per maund of 80 tolas to the seer.	1 R. 2 As. per maund of 80 tolas to the seer.
18	*Cotton and Silk Piece-Goods, Cotton Twist and Yarn, the produce of the United Kingdom or of any other British Possession*	3½ *per cent.*	7 *per cent.*

* The Articles of this Schedule which are repealed by Act IX., 1845, are printed in Italics.

No.	Enumeration of Goods.	When Imported on British Bottoms.	When Imported on Foreign Bottoms.
19	*Cotton and Silk Piece-Goods, Cotton Twist and Yarn, the produce of any other place*	*7 per cent.*	*14 per cent.*
20	Opium	24 Rs. per seer of 80 tolas.	24 Rs. per seer of 80 tolas.
21	Salt	3 Rs. per maund of 80 tolas to the seer.	3 Rs. per maund of 80 tolas to the seer.
22	Alum	10 per cent.	20 per cent.
23	Betel Nut, raw	5 per cent.	10 per cent.
24	Betel Nut, boiled	10 per cent.	20 per cent.
25	Camphor	10 per cent.	20 per cent.
26	Cassia	10 per cent.	20 per cent.
27	Cloves	10 per cent.	20 per cent.
28	Coffee	7½ per cent.	15 per cent.
29	Coral	10 per cent.	20 per cent.
30	Nutmegs and Mace	10 per cent.	20 per cent.
31	Pepper	10 per cent.	20 per cent.
32	Rattans	7½ per cent.	15 per cent.
33	Tea	10 per cent.	20 per cent.
34	Vermilion	10 per cent.	20 per cent.
35	*Wines and Liqueurs*	*10 per cent.*	*20 per cent.*
36	*Spirits* And the Duty on Spirits shall be rateably increased as the strength exceeds London proof; and when imported in bottles, 5 quart bottles shall be deemed equal to the Imperial Gallon.	*9 As. per Impl. Gall.*	*1 R. per Impl. Gall.*
37	Tobacco	10 per cent.	20 per cent.
	All Articles not included in the above enumeration	*3½ per cent.*	*7 per cent.*

And if the collector of customs shall see reason to doubt whether the goods, liable to a different rate of duty according to the place of their production, come from the country from which they are declared to come by the importer, it shall be lawful for the collector of customs to call on the importer to furnish evidence as to the place of manufacture or production, and if such evidence shall not satisfy the said collector of the truth of the declaration, the goods shall be charged with the highest rate of duty, subject always to an appeal to the Governor in Council of Fort St. George.

And upon the re-export by sea of goods imported, excepting opium and salt, and all goods of the growth, production, or manufacture of the continent of India, provided the re-export be made within two years of the date of import as per custom-house register, and the goods be identified to the satisfaction of the collector of customs, there shall be retained one-eighth of the amount of duty levied, and the remainder shall be repaid as drawback.

But no exporter of imported goods shall be entitled to drawback, unless the drawback be claimed at the time of re-export, nor shall any payment be made of drawback unless the amount claimed be demanded within one year from the date of entry of the goods for re-export in the custom-house register.

SCHEDULE (B).

Rates of Duty to be charged on Goods exported by Sea from any Port or Place in the Presidency of Fort St. George.

No.	Enumeration of Goods.	Exported on British Bottoms.	Exported on Foreign Bottoms.
1	Bullion and Coin	Free.	Free.
2	Precious Stones and Pearls	Ditto.	Ditto.
3	Books, Maps, and Drawings, printed in India	Ditto.	Ditto.
4	Horses and living Animals	Ditto.	Ditto.
5	Cotton Wool, exported to Europe, the United States of America, or any British Possession in America	Ditto.	9 As. per maund of 80 tolas to the seer.
6	Ditto ditto, exported to places other than above	9 As. per maund of 80 tolas to the seer.	1 R. 2 As. per maund of 80 tolas to the seer. See Act II., 1846.
7	Sugar and Rum, exported to the United Kingdom, or to any British Possession, not being a British Possession or Settlement on the Continent of India, including Bombay	Free.	3 per cent.
8	Ditto ditto, exported to any other place, including any British Possession or Settlement on the Continent of India, including Bombay	3 per cent.	6 per cent.
9	Grain and Pulse of all sorts other than Rice and Paddy	1 anna per bag not exceeding 2 maunds of 80 tolas to the seer; or if exported otherwise than in bags, ½ an anna per maund.	2 As. per bag not exceeding 2 maunds of 80 tolas to the seer; or if exported otherwise than in bags, 1 anna per maund.
10	Rice and Paddy	2 annas per bag as above, or one anna per maund.	4 annas per bag as above, or 2 annas per maund.
11	Indigo	3 Rs. per maund of 80 tolas to the seer.	6 Rs. per maund of 80 tolas to the seer.
12	Salt, having paid the price fixed to be paid on Salt declared for exportation to Ports or Places not being subordinate to the Presidency of Fort St. George	Free.	Free.
13	Tobacco	10 per cent.	20 per cent.
14	Opium, not covered by a Pass	Prohibited.	Prohibited.
	All Articles not included in the above enumeration	3 per cent.	6 per cent.

And upon the re-export to Europe, the United States of America, or to any British possession in America, from Madras or from any other port of the Presidency of Fort St. George, of cotton that has been imported under certificate of the payment of the duty specified in this Schedule,

provided that the re-export be made in British bottoms within two years from the date of such certificate, and the amount be claimed within one year from the date of re-export as per custom-house registers, the whole amount of export duty levied at the first place of export shall be refunded.

SCHEDULE (C).

Manifest of Goods imported per Commander,
from , under Colour, viz.

Marks.	Numbers.	Packages.	Quantity.	Weight.	Gallons.	Yards.	Description of Goods.	Invoice Value.			Tariff Value.		
								£.	s.	d.	£.	s.	d.
A.	1 @ 5	5 cases	250 pieces	0	0	3000	Cambrics						
							Long Cloths, bleached....						
							Long Cloths, unbleached..						
							Madapollams, bleached....						
							Ditto, unbleached						
							Plain Muslins ..						

N.B. Articles generally to be specified, excepting such as ironmongery, hardware, glass-ware, earthenware, cutlery, perfumery, confectionary, stationery, and such like. All articles from Great Britain to be entered according to the English weight, not native.

From China in like manner, in China weights.

In imports and exports of bullion or coin, to specify the sort of which they consist.

A.D. 1844. ACT VIII.

AN ACT *to authorize the Governments of Fort William in Bengal, Fort St. George, and Bombay, to remove Native Officers, Soldiers, and Followers imprisoned under Sentence of a Court Martial from one Prison to another:* PASSED *by the Right Honourable the Governor-General of India in Council, on the 9th April,* 1844.

The several Governors in Council may order the removal of a military prisoner from one prison to another.

IT is hereby enacted, that whenever any native officer or soldier, or follower, belonging to the forces of the East-India Company, shall be a prisoner in any public prison or other place within the territories subject to the Government of the said Company, under sentence of any Court Martial, it shall be lawful for the Governor or Governor in Council (as the case may be) of the Presidency in which such public prison or other place may be situated, to give an order in writing to the gaoler thereof, or other person in charge thereof, commanding him to deliver up such prisoner to the person producing such order; and such gaoler or other person shall deliver up such prisoner, at any period of his imprisonment, to the person producing such order, either for his discharge, or in order that he may be removed in military custody to undergo the remainder of his sentence, to such other public prison, or such other place as such Governor or Governor in Council (as the case may be) may direct; provided that such other public prison or other place shall be within the Presidency subject to the Government of the Governor or Governor in Council (as the case may be) who shall have given such order; and provided that the time of imprisonment on removal from one prison to another, or while the prisoner is in custody for any intermediate period, shall be reckoned as part of the original period of imprisonment for which such prisoner shall have been sentenced.

A.D. 1844. ACT IX.

AN ACT *for authorizing the Institution of Suits in the Courts of Principal Sudder Ameens and Sudder Ameens:* PASSED *by the Right Honourable the Governor-General of India in Council, on the 13th April,* 1844.

Suits within the competency of principal sudder ameens and sudder ameens to decide, shall be instituted in their courts.

I. IT is hereby enacted, that within the territories subject to the Presidencies of Fort William in Bengal, Fort St. George, and Bombay, all suits within the competency of a principal sudder ameen or sudder ameen to decide, shall ordinarily be instituted in the courts of those officers respectively.

Power of zillah judge to withdraw or transfer such suits.

II. Provided nevertheless, and it is hereby enacted, that it shall be competent to a zillah or city judge to withdraw such suits from the court in which they may have been instituted, and to try them himself, or to refer them for trial to any other court subordinate to his authority, and

competent in respect to the value of the suit, whenever he may see sufficient reason for so doing.

Where there is more than one principal sudder ameen or sudder ameen, the zillah judge shall settle the local jurisdiction of the moonsifs subordinate to each.

III. And it is hereby enacted, that whenever there shall be more than one principal sudder ameen or more than one sudder ameen attached to the court of any zillah or city judge, and not having any special local jurisdiction, it shall be the duty of such judge to appoint from time to time the several moonsifs' divisions which shall constitute the special local jurisdiction of each of such principal sudder ameens and sudder ameens, and that each of such principal sudder ameens and sudder ameens shall be empowered to take cognizance of all such suits as are mentioned in Section I. of this Act, provided the landed or other real property to which the suit may relate shall be situated, or in all other cases the cause of action shall have arisen, or the defendant at the time when the suit may be commenced shall reside as a fixed inhabitant within the limits of such local jurisdiction as aforesaid.

Summary appeals from principal sudder ameen and sudder ameen to zillah judge.

IV. And it is hereby enacted, that it shall be competent to the zillah or city judge to receive a summary appeal from the orders of any principal sudder ameen or sudder ameen, rejecting any original suit cognizable by him, and that all rules applicable to summary appeals from orders dismissing original suits on the ground of any default shall be applicable to the summary appeals given by this Act.

Stamps in suits cognizable as to amount by sudder ameens.

V. And it is hereby enacted, that in all suits which in respect to value are cognizable by a sudder ameen, the same stamps shall be sufficient in any other court as would have been sufficient in the Court of Sudder Ameen.

A.D. 1844. ACT XIV.

An Act *for regulating the Proceedings of the Sudder Courts at Fort William, Fort St. George, Bombay, and at Agra, in regard to Sentences of Transportation for Life:* Passed *by the Right Honourable the Governor-General of India in Council, on the 6th July,* 1844.

Extended by Act X., 1847.

Sudder Courts sentencing prisoners to imprisonment for life shall sentence them to transportation.

I. It is hereby enacted, that within the territories subject to the Government of the East-India Company, whenever any of the Sudder Courts shall sentence any offender to imprisonment for life, it shall at the same time sentence such offender to transportation beyond sea for life, unless there should be special reasons inducing the court to think such prisoner not a proper subject for transportation, which special reasons the court is hereby directed to record.

A single judge of the Sudder may add sentence of transportation

II. And it is hereby enacted, that within the said territories whenever any offender shall have been sentenced in the first instance by a com-

to that of imprisonment for life passed by other authorities.

missioner of circuit or sessions judge to imprisonment for life, or whenever a commissioner of circuit or sessions judge shall have recommended that sentence of imprisonment for life be passed upon any offender, it shall be competent to a single judge of the Sudder Court to sentence such offender at the same time to transportation beyond sea for life; and such single judge is hereby directed to sentence such offender at the same time to transportation beyond sea for life, unless there should be special reasons inducing him to think such offender not a proper subject for transportation, which special reasons he is hereby further directed to record.

A.D. 1844. ACT XXI.

AN ACT *for regulating the Emigration of the Native Inhabitants of the Territories under the Government of the East-India Company to Jamaica, British Guiana, and Trinidad:* PASSED *by the Right Honourable the Governor-General of India in Council, on the* 16*th November*, 1844.

Partial repeal of Act XIV., 1839.

I. IT is hereby enacted, that Act No. XIV. of 1839, and all Acts repealed thereby, so far as the same are applicable to the emigration of natives from the ports of Calcutta, Madras, and Bombay respectively, to Jamaica, British Guiana, and Trinidad, respectively, are repealed. Provided always, that the aforesaid Act No. XIV. of 1839 shall remain in full force in all the ports of India, except the ports aforesaid, and in regard to emigrants from India proceeding to other places than Jamaica, British Guiana, Trinidad, and Mauritius.

Natives may emigrate from Calcutta, Madras, and Bombay to Jamaica, British Guiana, and Trinidad.

II. And it is hereby enacted, that after the passing of this Act, emigrant labourers, being native inhabitants of the territories under the Government of the East-India Company, shall be allowed to pass and to be conveyed to Jamaica, British Guiana, and Trinidad respectively, from the ports of Calcutta, Madras, and Bombay respectively, but not otherwise.

Appointment and duties of emigration agents.

III. And it is hereby enacted, that at each of the three ports aforesaid, it shall be lawful for the Government of the Presidency within which the port is situated to authorize such persons as may be nominated by the Governments of Jamaica, British Guiana, or Trinidad, to act as emigration agents at the aforesaid ports respectively, and to exercise the powers conferred on emigration agents by this Act, and every such emigration agent shall make monthly reports to the Government to which he is subordinate of all matters transacted by him in pursuance of this Act.

Appointment of protector of emigrants.

IV. And it is hereby enacted, that at each of the three ports aforesaid, it shall be lawful for the Government of the Presidency within which the port is situated, to nominate a proper person to act as protector of emigrants at the aforesaid ports respectively.

V. And it is hereby enacted, that it shall not be lawful to convey any emigrant, being a native of India, who may embark for the purpose of labouring for hire in any of the colonies of Jamaica, British Guiana, or Trinidad, from any of the ports aforesaid in any ship or vessel, unless a license be obtained, for carrying emigrants in such ship or vessel, from the Government of the Presidency in which the port is situated. A fee not exceeding one rupee per emigrant, as may be regulated from time to time by the local Government, shall be demandable in respect of every such license, which fee shall be carried to the credit of the said Government, and the granting or withholding any such license shall be entirely discretionary with the Government; and in consideration of such license the master of every ship conveying or destined to convey emigrants from India shall execute a bond binding himself and his owners in a penal sum of 10,000 rupees to conform to the several conditions herein provided; and the said bond shall be executed in duplicate, that it may be put in suit either at the place of execution or in the colony to which the emigrants are to be conveyed, and one copy shall be forwarded to the Government of such colony to be dealt with as the case may require. And every ship or vessel in which any such emigrant shall be conveyed without a license being obtained as aforesaid shall be liable to be forfeited, and the master thereof shall be liable as for a misdemeanor in a fine of 1,000 rupees for every such emigrant so illegally conveyed.

Emigrant ships to be licensed.

Fee for license.

Master of ship to give bond.

Penalty for breach of conditions.

VI. And it is hereby enacted, that it shall not be lawful for the master of any vessel licensed as above to receive on board any emigrant labourer, as above provided, unless such labourer shall have in his possession and show a certificate or pass to be given to him by the emigration agent of the port, countersigned by the protector, stating his name, and the name of his father, and his age, and certifying that having appeared before such agent he has declared his willingness to proceed to work for hire in the colony to which such vessel is bound, and has been engaged by him as an emigrant to such colony on the part of the Government thereof.

Emigrants to have certificates.

VII. And it is hereby enacted, that before any ship or vessel so licensed to carry emigrant labourers as above provided shall be cleared out from any of the aforesaid ports for any one of the three colonies aforesaid, it shall be necessary for the master of such ship or vessel, provided any emigrant of the description aforesaid shall embark therein, to obtain from the emigration agent so nominated and authorized at such port as aforesaid, a certificate under the hand of such agent to the effect following; that is to say—

Master of ship to have a certificate from emigration agent.

First. That such agent has, by personal communication, done what is required on the part of such agent by the Third Article of the Schedule hereunto annexed. Provided always, that every such agent shall make the inquiries specified in such schedule in an open court or public office to which all persons shall have admission.

Second. That all the directions contained in the Fourth, Fifth, Sixth, and Seventh Articles of the said Schedule for insuring the health and safety of passengers have been duly complied with.

Third. That (in addition to the directions contained in the said Schedule) such rules have been complied with as the Governor-General in Council

shall, from time to time, frame, touching the medical attendance, and medical stores, and the proper clothing to be provided, the species of provisions suited to native habits, the number of women that should accompany the emigrants, or other matters.

Probable length of voyage.

VIII. And it is hereby enacted, that the probable lengths of the voyages to Jamaica, British Guiana, and Trinidad, from the ports aforesaid respectively, shall, for the purposes of this Act, be deemed to be

For the port of Calcutta twenty weeks;
For the port of Madras nineteen weeks;
For the port of Bombay nineteen weeks;

and that no ship or vessel carrying emigrant labourers to Jamaica, British Guiana, or Trinidad, shall sail from Calcutta, Madras, or Bombay, at any other time than between the 30th day of any September * and the 1st of March next thereafter ensuing.

Master to deliver list to emigration agent.

IX. And it is hereby enacted, that before any ship or vessel shall be cleared out from any of the aforesaid ports for Jamaica, British Guiana, or Trinidad, it shall be necessary for the master thereof to deliver to the emigration agent, so nominated and authorized at such port as aforesaid, the list specified in Article Ten of the said Schedule, and to obtain such duplicate thereof as is required by the said Article.

Penalty for clearing ship without observing above rules

X. And it is hereby enacted, that if the master of any ship or vessel shall, at any of the ports aforesaid, take on board such ship or vessel any emigrant labourer of the description aforesaid, and shall clear such ship or vessel for Jamaica, British Guiana, or Trinidad, without having fully complied with every particular hereinbefore required previous to clearance, he shall be liable, on conviction before any magistrate or justice of the peace, in a penalty of 200 rupees for every emigrant labourer so taken on board his ship or vessel.

Penalty for taking emigrants without entry in list before clearance.

XI. And it is hereby enacted, that if the master of any ship or vessel shall, after having cleared such ship or vessel at any such port as aforesaid for Jamaica, British Guiana, or Trinidad, take on board any such emigrant labourer as aforesaid without having entered such emigrant labourer in such list as aforesaid, or without having obtained such duplicate as aforesaid containing the entry of such emigrant prior to clearance, he shall be liable, on conviction before any magistrate or justice of the peace, in a penalty not exceeding 500 rupees for every emigrant so taken on board his ship or vessel.

Penalty for acts fraudulently vitiating the certificate.

XII. And it is hereby enacted, that if any master of any ship or vessel cleared for Jamaica, British Guiana, or Trinidad as aforesaid, shall, after having obtained such certificate as aforesaid, fraudulently do or suffer to be done any act or thing whereby such certificate shall become inapplicable to the altered state of the ship or vessel, its passengers or other matters to which such certificate relates, such master shall be liable, on conviction, in any penalty not exceeding 5,000 rupees, beside incurring a

* 31st of August from Madras. See Act XXV, 1845.

forfeiture of any bond executed in consideration of any license obtained for the vessel as originally described.

Custom-house officers and pilots may search and detain for the purposes of this Act.

XIII. And it is hereby enacted, for the greater security against emigrant labourers being embarked for Jamaica, British Guiana, or Trinidad, contrary to the provisions of this Act, that all the powers vested by law in the officers of customs, in regard to the searching and detention of ships or vessels, or otherwise for the prevention of smuggling on board thereof, may be exercised by such officers, for the prevention of the illegal embarkation of such emigrants as aforesaid on board ships or vessels bound for Jamaica, British Guiana, or Trinidad, and of other offences against this Act; and it is further enacted, that all pilots in the service of the East-India Company shall be invested with the same powers and be charged with the same duties as preventive officers of customs in this behalf.

Penalty for crimping.

XIV. And it is hereby enacted, that every person who shall attempt, by means of intoxication or by false imprisonment, or other means of crimping, to export any native on board any ship or vessel contrary to the provisions of this Act, shall be liable to be punished, on conviction before a magistrate, in a fine not exceeding 500 rupees, or imprisonment not exceeding six months; provided that nothing in this Act contained shall prevent the offender from being proceeded against by indictment, but the offender shall only be liable to one of these courses of proceeding.

XV. [*Relates to Calcutta only.*]

Punishment for forgery.

XVI. And it is hereby enacted, that if any person shall forge, or shall use, knowing it to be forged, any document required by this Act, such person shall be liable to be imprisoned for any period not exceeding seven years.

Penalties how to be enforced.

XVII. And it is hereby enacted, that all the several penalties to which the masters of ships or vessels are liable by this Act, shall be enforced by information laid before any justice of the peace at the instance of the emigration agent, or of any officer appointed for the purpose by the Government of the place or Presidency; or may be enforced by putting in suit the bond given by the master, if such bond has been given in consideration of the license granted to the ship.

SCHEDULE.

SCHEDULE.

1. The Governors of Jamaica, British Guiana, and Trinidad may, from time to time, nominate such persons as they shall see fit to act as emigration agents at Calcutta, Madras, and Bombay.

2. The remuneration to be given to any such agent in India shall not depend upon or be regulated by the number of the emigrants sent by him, but shall be in the nature of an annual salary.

3. Every such emigration agent shall ascertain, by personal communica-

tion with every emigrant previously to his or her embarkation from the port or place for which such agent shall have been appointed, that such emigrant has not been induced to emigrate by any fraud, false or unreasonable expectation, and is aware of the distance of the colony to which he or she is about to emigrate from the place where he or she is about to embark; and such agent shall explain the real advantages likely to be derived by such emigrant from a removal to such colony, at the same time cautioning such emigrant against unreasonable and unwarrantable expectations; and such agent shall also ascertain that every such emigrant is in good health, and not incapacitated from labour by old age, bodily infirmity, or disease.

4. It shall not be lawful to ship on board of any ship or vessel carrying emigrants from India to any of the colonies aforesaid, any number of passengers exceeding the proportion of one person for every two tons of the registered burthen of such ship or vessel; and no such ship or vessel carrying emigrants, and having more than one deck, shall have less than the height of six feet at the least between decks; and in case such ship or vessel shall have only one deck, a platform shall be laid beneath such deck, and in such manner as to afford a space of the height of six feet at the least, and that such platform shall not be so laid as that the lower beams shall project above the same; and that no such ship or vessel shall have more than two tiers of berths; and that no such ship or vessel shall carry passengers on any such voyage to any of the colonies aforesaid unless there shall be an interval of six inches at least between the deck or platform and the floor of the lower tier, throughout the whole extent thereof; and whatever may be the tonnage of the ship or vessel, no greater number of passengers shall be taken on board of such ship or vessel than shall be after the rate of one such person for every twelve superficial feet of the lower deck or platform, unoccupied by goods or stores not being the personal luggage of such person.

5. In the computation of the number of passengers within the meaning of these Regulations, two children under the age of ten years shall be considered as equal to, and shall be reckoned as, one person only.

6. There shall be actually laden on board of every ship or vessel conveying emigrants into any of the colonies aforesaid, at the time of departure of such ship or vessel from the port or place at which such labourers shall be embarked, good and wholesome provisions for the use and consumption of the said passengers, over and above the victualling of the crew, to the amount or in the proportion following; that is to say, a supply of water to the amount of five gallons for every week of the computed voyage for every passenger on board such ship or vessel, such water being carried in tanks or sweet casks; and a supply of rice, bread, biscuit, flour, oatmeal, or bread stuffs to the amount of seven pounds weight to every week of the computed voyage for every such passenger. Provided always, that when any such ship or vessel shall be destined to call at a port or place in the course of her voyage, for the purpose of filling up her water-casks, a supply of water at the rate before mentioned for every week of an average voyage to such port or place of calling, shall be deemed to be a compliance with this Regulation: and provided that the preceding Regula-

tion regarding food shall be deemed to have been complied with in any case when it shall be made to appear that, by the special authority of the Governor-General of India in Council, any other articles of food were substituted for the articles above enumerated as being in his judgment equivalent thereto.

7. Before any such ship or vessel shall be cleared out on any such voyage, the agent appointed for the port or place from which such ship or vessel shall be cleared out shall survey, or cause to be surveyed by some competent person, the provisions and water hereinbefore required to be on board for the consumption of passengers, and shall ascertain that the same are in good and sweet condition, and also that over and above the same there is on board an ample supply of water and stores for the victualling of the crew of the ship or vessel, and shall also ascertain that such ship or vessel is generally reputed seaworthy, and that the directions hereinbefore contained for ensuring the health and safety of the passengers have been complied with, and shall grant a certificate thereof under his hand to the master of such ship or vessel.

8. The master of every ship or vessel conveying emigrants to Jamaica, British Guiana, or Trindad, shall be bound to provide for and furnish to every such emigrant, and his wife and children, a sufficient quantity of good and wholesome provisions for his, her, and their daily maintenance during such voyage, and during the space of forty-eight hours next after the arrival of such ship or vessel at the place of destination.

9. Two copies of these Regulations, authenticated by the signature of the agent at the port or place at which such emigrants shall embark, shall be delivered to the master by such agent on demand at the time of clearance, and shall be kept on board of every ship or vessel carrying such emigrants as aforesaid, and one of such copies shall, upon request made at reasonable times to the master of the ship or vessel, be produced to any passenger for his perusal.

10. The master of every ship or vessel carrying emigrants from India to any of the three colonies aforesaid shall, before clearing out such ship or vessel, deliver to such agent at the port or place from which such vessel is cleared out, a list in writing, together with a duplicate of the same, specifying, as accurately as may be, the names, ages, and occupations of all and every the emigrants on board such ship or vessel, and such agent shall thereupon deliver to the said master the counterpart of such lists, signed by such agent, and the said master shall, on the arrival of such ship or vessel at the place of destination, and previous to the disembarkation of any such emigrants, give notice of the arrival of such ship or vessel, and deliver the said counterpart of such list to the protector of immigrants appointed or to be appointed at the colony at which the said ship or vessel may have arrived.

11. Provided always, that nothing in these Regulations contained shall apply to any ship or vessel in the service of the Lords Commissioners of the Admiralty, or to any of Her Majesty's ships of war.

A.D. 1844. ACT XXII.

AN ACT *for regulating the Copper Coinage of the Mints in the Territories of the East-India Company:* PASSED *by the Governor-General of India in Council, on the 28th December,* 1844.

Designation and value of copper coins.

I. IT is hereby enacted, that from and after the passing of this Act the following copper coins only shall be issued from any mint within the territories of the East-India Company:—

1 A pice weighing .... 100 grains troy
2 A double pice..... 200 „
3 A pie of one-twelfth of an anna piece ... $33\frac{1}{3}$ „

With such devices as shall be fixed for the same by the Governor-General in Council.

To be legal tender.

II. And it is hereby enacted, that from and after the passing of this Act the said pice shall be a legal tender throughout the territories of the East-India Company for $\frac{1}{64}$ of the Company's rupee, and the said double pice for $\frac{1}{32}$ of the Company's rupee, and the said pie for $\frac{1}{192}$ of the Company's rupee.

III. [*Applies to Bombay only.*]

Limit of legality of tender.

IV. Provided always, that none of the said copper coins shall be legal tender except for fractions of a rupee.

A.D. 1845. ACT VI.

AN ACT *to amend the Law regarding the Issue of Commissions of the Peace:** PASSED *by the Governor-General of India in Council, on the 5th of April,* 1845.

Supreme Courts may issue special commissions of the peace for individuals not named in the general commissions.

WHEREAS it is inconvenient to issue a new general commission of the peace whenever the Executive Government of any of the Presidencies of Fort William in Bengal, Madras, or Bombay shall nominate and appoint any persons not named in the general commission last issued to act as justices of the peace—It is hereby enacted, that the Supreme Court of Judicature of each of the said Presidencies shall and may, from time to time, upon the order or warrant of the executive Government of such Presidency, issue separate commissions to any persons not named in the

* By Act IV., 1847, the Governor in Council of Fort St. George is empowered to appoint any military officer to be a justice of the peace.

general commission of the peace last issued, who by law are capable of being appointed to the office of justice of the peace, and who shall be nominated and appointed by such Executive Government to act as justices of the peace within and for such Presidency, and the places subordinate thereto, or within and for the Presidency town. And all such commissions shall be issued in the name of the Queen's Majesty, her heirs and successors, under the seal of the Supreme Court, and tested in the name of the Chief Justice of such court, and shall be filed of record in the Court of Oyer and Terminer of the Presidency or place wherein and for which the same shall be issued, as supplementary to the general commission of the peace last issued which shall remain full in force.

A.D. 1845. ACT IX.

AN ACT *for amending the Schedules of Import Duties annexed to Act XIV. of* 1836, *to Act I. of* 1838, *and to Act VI. of* 1844, *and for repealing Act XV. of* 1844: PASSED *by the Governor-General of India in Council, on the* 17*th of May*, 1845.

Repeal of certain duties in Schedule (A), Act VI., 1844.

I. IT is hereby enacted, that from and after the 1st day of June, 1845, so much of Schedule (A) annexed to Act XIV. of 1836, so much of Schedule (A) annexed to Act I. of 1838, and so much of Schedule (A) annexed to Act VI. of 1844, as relates to the rates of duty to be charged on the goods next hereinafter specified, be repealed.

Marine stores, the produce or manufacture of the United Kingdom or of any British possession.

Marine stores, the produce of any other place or country.

Metals, wrought or unwrought, the produce or manufacture of the United Kingdom or of any British possession.

Metals, wrought or unwrought, excepting tin, the produce or manufacture of any other place.

Woollens, the produce or manufacture of the United Kingdom or of any British possession.

Woollens, the produce of any other place or country.

Cotton and silk piece-goods, cotton twist and yarn, the produce of the United Kingdom or of any British possession.

Cotton and silk piece-goods, cotton twist and yarn, the produce of any other place.

Wines and liqueurs.

Spirits.

All manufactured articles, not included in the enumeration contained in the said schedules.

Repeal of the enactments touching such rescinded duties.

II. And it is hereby enacted, that from and after the said 1st day of June, 1845, all the provisions of the three above-mentioned Acts which have reference to so much of the Schedules (A) to those Acts respectively annexed

as is repealed by this Act, shall, from and after the said day, be taken to have reference to the Schedule annexed to this Act, as if the Schedule annexed to this Act had been part of each of the Schedules (A) above mentioned.

Repeal of Act XV., 1844.

III. And it is hereby enacted, that Act XV. of 1844, entitled an Act for amending the Schedules of Import Duties annexed to Act XIV. of 1836, to Act I. of 1838, and to Act VI. of 1844, be repealed.

SCHEDULE.

Amended schedule.

Rates of Duty to be charged on the following Goods imported by Sea into any Port of the Presidencies of Fort William in Bengal, Bombay, or Fort St. George.

Enumeration of Goods.	When Imported on British Bottoms.	When Imported on Foreign Bottoms.
Marine Stores, the produce or manufacture of the United Kingdom or of any British Possession	5 per cent.	10 per cent.
Ditto ditto, the produce or manufacture of any other place or country	10 per cent.	20 per cent.
Metals, wrought or unwrought, the produce or manufacture of the United Kingdom or of any British Possession	5 per cent.	10 per cent.
Metals, ditto ditto, the produce or manufacture of any other place	10 per cent.	20 per cent.
Woollens, the produce or manufacture of the United Kingdom or of any British Possession.....	5 per cent.	10 per cent.
Woollens, the produce of any other place or country.....	10 per cent.	20 per cent.
Cotton and Silk Piece-Goods, and all manufactures of Cotton or Silk, except Thread, Twist, and Yarn, or of Cotton or Silk, mixed with any other material, the produce of the United Kingdom or of any British Possession.....	5 per cent.	10 per cent.
Ditto, the produce of any other place....	10 per cent.	20 per cent.
Cotton Thread, Twist, and Yarn, the produce of the United Kingdom or of any British Possession.....	3½ per cent.	7 per cent.
Ditto, the produce of any other place....	7 per cent.	14 per cent.
Porter, Ale, Beer, Cyder, and other similar fermented Liquors	5 per cent.	10 per cent.
Wines and Liqueurs.....	1 rupee per Imperial gallon.	2 rupees per Imperial gallon.
Spirits	1 rupee and 8 annas per Imperial gallon.	3 rupees per Imperial gallon.
And the Duty on Spirits shall be rateably increased as the Strength exceeds London proof, and when imported in bottles, five quart bottles shall be deemed equal to the Imperial Gallon.		
All manufactured articles, not included in the above enumeration.....	5 per cent.	10 per cent.

A.D. 1845. ACT X.

AN ACT *for empowering Courts to issue Warrants in Cases of Failure to serve Summons:* PASSED *by the Governor-General of India in Council, on the* 17*th May,* 1845.

IT is hereby enacted, that in the territories subject to the Government of the East-India Company, except the local jurisdiction of the Supreme Courts, whenever in any criminal case a summons to the defendant is, by law, the first process, it shall be lawful for any court which has issued a summons in such case, to issue a warrant for the apprehension of the defendant in such case, upon proof that due diligence has been used to serve such summons upon the defendant, and that the officer or other person whose duty it may be to serve such summons upon the defendant has been unable to serve such summons; any law or regulation to the contrary notwithstanding.

Courts may issue warrants against parties who evade service of summons.

A.D. 1845. ACT XV.

*AN ACT *for declaring and enacting the Privileges of Native Officers and Soldiers of the Armies of the Three Presidencies in respect of Judicial and Revenue Proceedings:* PASSED *by the Governor-General of India in Council, on the* 16*th August,* 1845.

I. WHEREAS doubts have arisen whether the Regulation XV. of 1816 of the Bengal code is still in force, or how much, if any, of its provisions is still in force,—

It is therefore hereby declared and enacted, that the said Regulation, and every provision thereof, are still in force.

Bengal Regulation XV., 1816.

II. And whereas by virtue of Regulation VIII. of 1817 of the Madras code, the law for the Madras army is the same as the law hereinbefore declared and enacted for the Bengal army, and whereas it is expedient and just that the law should be the same for the Bombay army also,—

It is therefore hereby enacted, that the said Regulation of the Bengal code is extended to the army of Bombay, except in so far as any of its provisions may be in their own nature inapplicable to that army.

Madras Regulation VIII., 1817.

III. And whereas it is just and reasonable to extend the privileges conferred upon native officers and soldiers by the Regulations aforesaid in respect of exemption from stamps in legal proceedings,—

All courts to receive plaints in soldiers' suits without stamps—exception.

* There are no provisions in this Act which did not already exist in the Madras Regulations in favour of sepoys.

It is hereby enacted, that all the courts of the East-India Company shall receive plaints in original suits, not being suits originating in loans or in pecuniary transactions of a commercial nature, upon unstamped paper, when the plaintiff is a native officer or soldier in the military establishment of the Presidency of Fort William, Fort St. George, or Bombay.

Value of stamp to be charged in the decree.

IV. Provided that the value of any stamp from which a plaintiff may be exempted by the last preceding section shall be charged in the decree on behalf of Government to the party cast, or to the parties respectively in such proportions as may be deemed equitable.

Fine for fraudulent abuse of this privilege.

V. And it is hereby enacted, that if any native officer or soldier shall institute a suit under this Act, in which he is not bonâ fide interested, or not interested to the extent alleged in the plaint, for the purpose of enabling some other person to avail himself fraudulently of the advantages conferred by this Act, such native officer or soldier shall be liable to a fine not exceeding five times the value of the stamped paper which the party interested would have required for the institution of the suit otherwise than under this Act, such fine to be levied in the manner prescribed for the execution of decrees.

VI. VII. [*Modifications of Section IV., Act IV., of* 1840, *which does not extend beyond the Presidency of Bengal.*]

A.D. 1845. ACT XVI.

AN ACT *for regulating the Readmission of Appeals after dismissal under Act XXIX. of* 1841 : PASSED *by the Governor-General of India in Council, on the* 16*th of August,* 1845.

Preamble.

WHEREAS the provisions of Act XXIX. of 1841 are inconveniently severe as regards appeals, and it is expedient to mitigate the strictness thereof,—

Suits and appeals dismissed under Act XXIX., 1841, may be readmitted if dismissed for default of vakeel or unavoidable accident.

I. It is therefore hereby enacted, that whenever an appeal in any of the courts of the East-India Company in the Presidencies of Bengal or Madras shall, after the passing of this Act, have been dismissed under the provisions of the said Act XXIX. of 1841, it shall be competent to the court which shall have dismissed such appeal to readmit the same, if the appellant shall make application for that purpose, on the stamp prescribed for miscellaneous petitions, within three months after the appeal shall have been dismissed, if dismissed by the Sudder Court—and within one month after the appeal shall have been dismissed, if dismissed by any other court—and shall satisfy the court that the dismissal was occasioned by the default of his vakeel or by unavoidable accident.

II. And it is hereby enacted, that it shall be competent to any of the said courts to readmit any appeal which may have been dismissed before the passing of this Act under the provisions of Act XXIX. of 1841, if the appellant shall make application for that purpose, on the stamp prescribed for miscellaneous petitions, within three months after the passing of this Act, and shall satisfy the court that the dismissal was occasioned by the default of his vakeel or by unavoidable accident.

Extension of the above provision.

III. Provided always and it is hereby enacted, that no appeal which has been readmitted under this Act, and again dismissed under the provisions of Act XXIX. of 1841, shall be again readmitted.

A second dismissal final.

A.D. 1845. ACT XVIII.

AN ACT *for the Punishment of Offences committed by Convicts sentenced to Imprisonment for Life:* PASSED *by the Governor-General of India in Council, on the 23rd of August,* 1845.

WHEREAS it is expedient that offences committed by convicts sentenced to imprisonment for life should be punished with greater severity than such offences are punished with in other cases,—

Preamble.

I. It is hereby enacted, that within the territories subject to the Government of the East-India Company, except within the local limits of the jurisdiction of the Supreme Courts, and except within the settlements in the Straits of Malacca, any convict sentenced to imprisonment for life, or to transportation for life, who does any act with the intention of thereby causing, or with the knowledge that he or she is likely thereby to cause the death of any person, shall, upon conviction thereof before the Sessions Court, subject to confirmation by the Sudder Court, be punished with death, or with transportation for life, or with corporal punishment not exceeding thirty-nine stripes, whether such convict does or does not by such act cause the death of any person.

Punishment to be awarded to convicts for endangering wilfully the life of any one.

II. And it is hereby enacted, that any such convict as aforesaid who commits any offence whatever other than the offences mentioned in the preceding section, or who is guilty of violent or disorderly conduct after having been punished by the order of the superintendent of the gaol in which he or she is confined, shall, upon conviction thereof before the Sessions Court, subject if the sentence be transportation for life to confirmation by the Sudder Court, be punished with transportation for life, or with corporal punishment not exceeding thirty-nine stripes.

Punishment of convicts for other offences.

A.D. 1845. ACT XXI.

AN ACT *respecting the Appointment and Powers of Agents for the Suppression of Meriah Sacrifices in the Hill Tracts of Orissa:* PASSED *by the Governor-General of India in Council, on the* 13*th September*, 1845.

Governor-General in Council may place certain tributary estates under agent for the suppression of Meriah sacrifices.

I. IT is hereby enacted, that it shall be lawful for the Governor-General in Council, by an Order in Council, to remove from the jurisdiction and superintendence of the commissioner and superintendent of Tributary Mehals in Cuttack, any of the tributary estates specified in Section II., Regulation II. of 1816, of the Bengal code, and to place any such estates under the jurisdiction and superintendence of such officer (to be called the Agent for the Suppression of Meriah Sacrifices) and his subordinates, as shall, from time to time, be appointed by the Government of Bengal in that behalf.

Governor-General in Council may place certain other tracts under agent

II. And it is hereby enacted, that it shall be lawful for the Governor-General in Council, by an Order in Council, to remove from the jurisdiction and superintendence of the agent to the Governor-General South-West Frontier, any portion of the tracts of country comprised in that agency, and to place any such portion under the jurisdiction and superintendence of such officer (to be called the Agent for the Suppression of Meriah Sacrifices) and his subordinates, as shall, from time to time, be appointed by the Governor of Bengal in that behalf.

Governor-General in Council may place portions of Ganjam and Vizagapatam under agent,

III. And it is hereby enacted, that it shall be lawful for the Governor-General in Council, by an Order in Council, to remove from the jurisdiction and superintendence of the collectors of Ganjam or Vizagapatam, exercised by them as agents to the Governor of Fort St. George under Act XXIV. of 1839, any portion of the tracts of country specified in Section II. of the said last-mentioned Act, and to place any such portion under the jurisdiction and superintendence of such officer (to be called the Agent for the Suppression Meriah Sacrifices) and his subordinates, as shall, from time to time, be appointed by the Government of Fort St. George in that behalf.

and likewise any portions of zillah Rajahmundry.

IV. And it is hereby enacted, that it shall be lawful for the Governor-General in Council, by an Order in Council, to remove from the operation of the general Regulations and laws any portion of zillah Rajamundry, and to place any such portion under the jurisdiction and superintendence of such officer (to be called the Agent for the Suppression of Meriah Sacrifices) and his subordinates, as shall be appointed by the Government of Fort St. George in that behalf.

Such agents to act under instructions of Government of India received through their own Governments.

V. And it is hereby enacted, that all such agents and their subordinates as shall be appointed under this Act, shall, in the exercise of their jurisdiction and superintendence, be guided by such instructions as they may,

from time to time, receive from the Government of India through their respective Governments.

VI. And it is hereby enacted, that it shall be competent to the Governor-General in Council, through the Governments of the aforesaid Presidencies respectively, to prescribe such rules as he may deem proper for the guidance of such agents and subordinates, and to determine to what extent the decision of the said agents in civil suits shall be final, and in what suits an appeal shall lie to the Sudder Court, and to define the authority to be exercised by the said agents in criminal trials, and what criminal cases they shall submit for the decision of the Sudder Court.

Governor-General in Council to prescribe rules for guidance of the agents, and settle jurisdiction and right of reference to Sudder Court.

A.D. 1845. ACT XXV.

AN ACT *for regulating the Time of Sailing of Ships carrying Emigrants from Madras to Jamaica, British Guiana, and Trinidad:* PASSED *by the Honourable the President of the Council of India in Council, on the 20th of December,* 1845, *with the assent of the Right Honourable the Governor-General of India.*

WHEREAS by Section VIII., Act XXI. of 1844, it was amongst other things enacted, that no ship or vessel carrying emigrant labourers to Jamaica, British Guiana, or Trinidad, should sail from Calcutta, Madras, or Bombay, at any other time than between the 30th day of any September and the 1st of March next thereafter ensuing,—

Preamble.

And whereas the said provision is found to be inconvenient so far as regards ships or vessels carrying emigrant labourers from Madras,—

It is therefore hereby enacted, that so much of the said Act as is hereinbefore recited be repealed so far as regards such last-mentioned ships or vessels.

Rescission.

II. And it is hereby enacted, that no ships or vessels carrying emigrant labourers to Jamaica, British Guiana, or Trinidad, shall sail from Madras at any other time than between the 31st day of any August and 1st March next thereafter ensuing.

Modification of time for sailing from Madras for Jamaica, British Guiana, and Trinidad.

A.D. 1845. ACT XXX.

AN ACT *for enabling Session Judges within the Madras Presidency to award Fines in Compensation to Injured Parties:* PASSED *by the Honourable the President of the Council of India in Council, on the 27th December,* 1845, *with the assent of the Right Honourable the Governor-General of India.*

Session Judges may award compensation out of fines to injured parties.

IT is hereby enacted, that from the 1st day of February, 1846, it shall be competent to the Session Judges within the Presidency of Fort St. George, in adjudging a sentence of fine, to award such fine, or any part of such fine, in compensation to the party who may have been injured, in like manner as it is competent to magistrates to award fines under Clause Second, Section XXXIX., Regulation IX., 1816, of the Madras code.

A.D. 1845. ACT XXXII.

AN ACT *to modify Regulation I. of* 1820, *of the Madras Code, relative to Manufacturing Spirituous Liquors by the European Process of Distillation:* PASSED *by the Honourable the President of the Council of India in Council, on the 27th of December,* 1845, *with the assent of the Right Honourable the Governor-General of India.*

Preamble.

I. WHEREAS it is expedient to modify Regulation I. of 1820, of the Madras code, and to allow persons manufacturing spirituous liquors by the European process of distillation to dispose of the same under certain conditions for consumption within the territories of the Presidency of Fort St. George: And whereas it is desirable to remove certain doubts which have existed as to whether European British subjects are equally with other parties amenable to the local authorities in the provinces for offences committed in violation of the said Regulation I. of 1820, of the Madras code,—it is hereby enacted, that Clauses Second and Third, Section IV., Regulation I., 1820, of the said code, be repealed.

Repeal of Clauses Second and Third, Section IV., Regulation I., 1820.

Covenants to be contained in licenses granted for distilleries.

II. And it is hereby enacted, that the licenses to be granted under Section IV., Regulation I., 1820, of the Madras code, for the establishment of all distilleries for manufacturing rum, arrack, or other spirits, by process of distillation similar to the European system, shall be prepared according to a form to be approved by the Board of Revenue, and shall contain a stipulation that the whole of the spirituous liquor manufactured at such distillery shall be exported by sea, or shall be sold only to the civil or military officers of Government empowered to purchase the same

on account of the public service, or to abkarry renters for retail sale within the limits of their respective farms, but not to the licensed retail dealers of Madras contemplated by Section VII., Regulation I., 1813, of the Madras code.

Fine for breach of license.

III. And it is hereby enacted, that any person, whether European or not, who, in breach of the stipulation in his distillery license held under the provisions of the foregoing Section and of Clause First, Section IV., Regulation I., 1820, Madras code, shall, directly or indirectly, sell, or permit to be sold, any such spirituous liquors to any European sailor or soldier, or to any native of India, or other person, save and except to those persons to whom it is hereinbefore declared that such liquors may be lawfully sold, shall, on proof thereof to the satisfaction of the collector of revenue by whom such license shall have been granted, be liable to the forfeiture of his license, or to a fine not exceeding rupees 1,000 for every such offence, subject to the confirmation of the Board of Revenue, to whose final decision every such case shall be referred.

Europeans subject to penalties, but exempted from hard labour.

IV. And it is hereby enacted, that European British subjects, as well as other parties guilty of the offences specified in Regulation I. of 1820, shall, on conviction before the Session Judge or Subordinate Judge of the Zillah, be subject to the penalties therein severally and respectively provided against the commission of such offences, save and except that no European British subject shall, in any case, be liable to hard labour when imprisoned in pursuance of a sentence passed upon him under that Regulation; but that any fines which may be imposed for acts done in breach of the provisions of the said Regulation, or of the provisions of Sections II. and III. of this Act, shall, in default of payment, be recovered by the distress and sale of the property of the parties against whom such fines shall have been adjudged.

Levy of fines.

European British subjects may be imprisoned in Madras gaol.

V. And provided also, that it shall be lawful for the Session Judge or Subordinate Judge of the Zillah, in sentencing any European British subject to imprisonment, to direct that the imprisonment shall be in the gaol at Madras.

The gaoler is to receive such prisoners.

VI. And it is hereby enacted, that the gaoler of the gaol at Madras shall receive into the said gaol any European British subject so sentenced as aforesaid, and keep him there imprisoned during the term of his sentence, in the same manner as if he had been sentenced by the Supreme Court.

A.D. 1846. ACT I.

AN ACT *for amending the Law regarding the Appointment and Remuneration of Pleaders in the Courts of the East-India Company:* PASSED *by the Honourable the President of the Council of India in Council, on the 7th January,* 1846, *with the assent of the Right Honourable the Governor-General of India.*

I. [*Repeals certain rules of the Bengal code.*]

Repeal of certain enactments.

II. And it is hereby enacted, that Clauses Second and Third, Section XIV., Regulation VI., 1816; Section VII., Clause First, Section XV., Sections XXIII., XXIV., XXVIII., XXIX., XXXII., XXXIII., XXXIV., XXXV., Regulation XIV., 1816; Clause Seventh, Section IV., Clause Eleventh, Section V., Clause Fourth, Section VIII., Regulation XV., 1816; Clause Third, Section VI., Regulation I., 1827; Clause Third, Section VI., Regulation VII., 1827; Section V., Regulation VI., 1828; Section IV., Regulation IV., 1832, of the Madras code, be repealed.

III. [*Repeals certain rules of the Bombay code.*]

Office of pleader open to all persons producing certificate of qualification from Sudder Court.

IV. And it is hereby enacted that the office of pleader in the courts of the East-India Company shall be open to all persons of whatever nation or religion; provided that no person shall be admitted a pleader in any of those courts unless he have obtained a certificate, in such manner as shall be directed by the Sudder Courts, that he is of good character and duly qualified for the office, any law or Regulation to the contrary notwithstanding.

Barristers of the Supreme Courts in India may plead in the Sudder Courts.

V. Provided nevertheless, and it is hereby enacted, that every barrister of any of Her Majesty's courts of justice in India shall be entitled as such to plead in any of the Sudder Courts of the East-India Company; subject, however, to all the rules in force in the said Sudder Courts applicable to pleaders, whether relating to the language in which the Court is to be addressed or to any other matter.

Suspension of certain enactments.

VI. And it is hereby enacted, that Section XXV., Regulation XXVII., 1814, of the Bengal code; Section XXV., Regulation XIV., 1816, of the Madras code; and Section LII., Regulation II., 1827, of the Bombay code, shall cease to be enforced, excepting for the purpose specified in Section VII. of this Act.

Parties at liberty to settle with vakeels for their fees.

How costs are to be

VII. And it is hereby enacted, that parties employing authorized pleaders in the said courts shall be at liberty to settle with them by private agreement the remuneration to be paid for their professional services, and that it shall not be necessary to specify such agreement in the vakalutnama; provided that when costs are awarded to a party in any regular

suit, original or appeal, decided on the merits, against another party, the amount to be paid on account of fees of pleaders shall be calculated according to the rules contained in the Sections of Regulations specified in Section VI. of this Act; and that when costs are awarded in other cases, the amount to be paid on account of such fees shall be one-fourth of what it would have been in a regular suit decided on its merits.

settled when awarded in a decree.

VIII. And it is hereby enacted, that private agreements between parties and their pleaders, respecting the remuneration to be paid for professional services, shall not be enforced otherwise than by a regular suit.

Private agreements between client and vakeel to be enforced only by suit.

IX. And it is hereby enacted, that so much of Section XX., Regulation XXVII., 1814, of the Bengal code, and of Section XX., Regulation XIV., 1816, of the Madras code, as prescribes the rate of fees to be received by authorized pleaders for legal opinions, be repealed, and that persons taking such opinions from authorized pleaders shall be at liberty to settle with them by private agreement the remuneration to be paid for such opinions.

Rule about fees for opinions, repealed.

X. And it is hereby enacted, that whenever a pleader has rendered himself liable to a fine in the Court of a Principal Sudder Ameen or Sudder Ameen, it shall be competent to such principal sudder ameen or sudder ameen to impose such fine; provided that an appeal from all orders imposing such fines shall lie to the Zillah or City Judge, whose decision thereon shall be final.

Principal sudder ameen and sudder ameen may fine vakeels.

XI. And it is hereby enacted, that the rules applicable to pleaders in the Courts of the Zillah and City Judges shall henceforth be applicable, so far as they are capable of application, to pleaders in the Moonsifs' Courts.

Rules for pleaders in Zillah Courts applicable to Moonsifs' Courts.

XII. And it is hereby enacted, that whenever a pleader has conducted himself in such a manner in the Court of a Moonsif as would have rendered him liable to a fine if he had so conducted himself in the Court of a Zillah or City Judge, it shall be competent to such moonsif to impose such fine; provided that an appeal from all orders imposing such fines shall lie to the Zillah or City Judge, whose decision thereon shall be final.

Moonsifs may fine vakeels.

Appeal to zillah judge.

XIII. And it is hereby enacted, that nothing in this Act contained shall apply to vakeels who may be employed in the Courts of the Village Moonsifs, or before the village or district punchayets, or before the collectors of zillahs, under the provisions of Regulations IV., V., VII., and XII., 1816, of the Madras code.

This Act not to apply to vakeels before village moonsifs, punchayets or collectors.

A.D. 1846. ACT II.

AN ACT *relating to unscrewed Cotton exported from the Continent of India, and imported at the Bombay Presidency:* PASSED *by the Honourable the President of the Council of India in Council, on the 7th January,* 1846, *with the assent of the Right Honourable the Governor-General of India.*

How unscrewed cotton may be exported from Madras to Bombay.

I. It is hereby enacted, that unscrewed cotton wool shall be allowed to be exported from any subordinate port of the Bombay Presidency to the port of Bombay, free of the duty specified in Schedule (B) of Act No. I. of 1838, and to the port of Bombay from any port of the Madras Presidency, free of the duty specified in Schedule (B) of Act No. VI. of 1844, to which port of the Madras Presidency the Governor in Council thereof may from time to time be pleased, by a notification in the official Gazette, to grant such exemption of that duty: provided that the cotton wool so exported shall not be shipped on a square-rigged vessel.

Cotton wool may be imported into Bombay free of duty.

II. And it is hereby enacted, that cotton wool shall be allowed to be imported into the port of Bombay, from any part of the continent of India, free of the duty specified in Schedule (A) of the said Act No. I. of 1838.

A.D. 1846. ACT IX.

AN ACT *for authorizing the Government of Fort St. George to provide Regulations for the several Ports and Places of Anchorage within the Territories subject thereto:* PASSED *by the Honourable the President of the Council of India in Council, on the 5th of December,* 1846, *with the assent of the Right Honourable the Governor-General of India.*

Preamble.

WHEREAS Act IV. of 1842, entitled "An Act for the better Management of Boats and Catamarans in the Madras Roads, and for the Amendment of certain Harbour Regulations," has been found by experience to operate beneficially; and whereas it is expedient that regulations similar in principle to the provisions contained in the said Act, but varying in detail, if local circumstances require such variation, should be provided for all ports and other places of anchorage within the territories subject to the Government of the Presidency of Fort St. George:

Governor in Council may make rules for the management of boats

I. It is therefore hereby enacted, that the Governor in Council of Fort St. George may from time to time make, in respect of each port or other

place of anchorage within the territories subject to the Government of the said Presidency, such regulations for the management of boats and catamarans, and such other matters as are provided for by the said Act IV. of 1842, in respect of the Madras Roads, as to them shall seem expedient, being similar in principle to the provisions contained in the said Act, but varying in detail, if local circumstances require such variation. And all such regulations shall be submitted, for confirmation or disallowance, to the Governor-General of India in Council, and every such Regulation shall have the force of law after it shall have been confirmed by the Governor-General of India in Council.

and catamarans in the subordinate ports subject to the confirmation of the Governor-General in Council.

A.D. 1847. ACT II.

AN ACT *to declare the Meaning and Extent of certain Words in Act V. of* 1840: PASSED *by the Honourable the President of the Council of India in Council, on the* 13*th of February,* 1847, *with the assent of the Right Honourable the Governor-General of India.*

WHEREAS by Section IV. of Act V. of 1840, it was amongst other things provided, that the said Act should not extend to any declaration or affirmation made in any of Her Majesty's courts of justice, and doubts have arisen whether the words "Her Majesty's Courts of Justice" mean and extend to the courts of justices of the peace,—

Preamble.

It is hereby declared and enacted, that the words "Her Majesty's Courts of Justice" in the said Act shall be deemed not to have meant nor extended to, and not to mean nor extend to, the courts of the justices of the peace.

Act V., 1840, extends to courts of justices of the peace.

A.D. 1847. ACT IV.

AN ACT *to authorize the Governor in Council of Fort St. George to appoint any Military Officer a Magistrate:* PASSED *by the Honourable the President of the Council of India in Council on the* 10*th of April,* 1847, *with the assent of the Right Honourable the Governor-General of India.*

Governor in Council may appoint any military officer a magistrate, and confer any powers of magistrates on assistant magistrates.

IT is hereby enacted, that from and after the first day of May, 1847, it shall be competent to the Governor in Council of Fort St. George to appoint any military officer in the service of the East-India Company a magistrate or an assistant magistrate in one or more zillahs, and to confer on any assistant magistrate, by a special order, any of the powers of a magistrate, any law or regulation to the contrary notwithstanding.

A.D. 1847. ACT V.

AN ACT *to facilitate the Execution of the Sentences of Courts, established by the Authority of the Governor-General in Council, for the Administration of Criminal Justice in States or Territories administered by Officers acting under the Authority of the East-India Company:* PASSED *by the Honourable the President of the Council of India in Council, on the* 10*th of April,* 1847, *with the assent of the Right Honourable the Governor-General of India.*

Officers in charge of jails within the Company's territories may give effect to sentences of courts established by Company's Government in territories not directly subject to their authority.

I. IT is hereby enacted, that within the territories subject to the Government of the East-India Company, and without the local limits of the jurisdiction of Her Majesty's Courts of Judicature, the several officers in charge of jails shall be competent to give effect to any sentence that may be passed by any court established, or that may be established, by the authority of the Governor-General of India in Council for the administration of criminal justice in states or territories administered by officers acting under the authority of the East-India Company, although such states or territories are not subject to the Government of any one of the Presidencies of Fort William in Bengal, Fort St. George, or Bombay, or are not subject to the operation of the general Regulations.

What warrant shall authorize such proceedings.

II. And it is hereby enacted, that a warrant under the official seal and signature of the officer or officers exercising criminal jurisdiction within such states or territories as aforesaid shall be sufficient authority for holding any prisoner in confinement, or for transmitting any prisoner for transportation beyond sea, or for inflicting any other punishment prescribed therein.

In cases of doubt as to competency of offi-

III. And it is hereby enacted, that if any officer in charge of a jail

shall entertain any doubt as to the legality of any warrant sent to him for execution under this Act, or as to the competency of the person or persons whose official seal and signature may be affixed thereto to pass the sentence and issue such warrant, such officer shall refer the matter to the Government to which he is subject, by whose order on the case such officer, and all other public officers, shall be guided as to the future disposal of the prisoner; and that pending any such reference, the prisoner shall be detained in custody in such manner, and with such restrictions or mitigations as may be specified in the warrant.

cer issuing warrant, reference to be made to the local Government.

IV. And it is hereby enacted, that the provisions of the existing Acts and Regulations, and all other rules in force for the treatment and security of prisoners confined in the said jails, shall apply and be of equal force and effect in the case of prisoners confined therein under this Act, as in the case of other prisoners confined therein.

Acts and Regulations respecting prisons to apply to such cases.

A.D. 1847. ACT VIII.

AN ACT *for rendering lawful the Emigration of Labourers from the Port of Madras, in the Presidency of Fort St. George, to Mauritius:* PASSED *by the Honourable the President of the Council of India in Council, on the 8th of May,* 1847, *with the assent of the Right Honourable the Governor-General of India.*

I. IT is hereby enacted, that from and after the passing of this Act, emigration to Mauritius may lawfully take place under the provisions of the Act No. XV. of 1842, from the port of Madras as well as from the port of Calcutta.

Emigrants may proceed from Madras to Mauritius.

II. And it is hereby enacted, that it shall be competent to the Governor in Council of Fort St. George to nominate a proper person to act as protector of emigrants at Madras, and that no emigrant shall be permitted to embark without a certificate from the agent appointed by the Government of Mauritius, countersigned by the protector, to the effect that such person has been engaged by him as an emigrant to that island on the part of the said Government.

Protection and checks on such emigration.

A.D. 1847. ACT X.

AN ACT *for amending Act XXX. of* 1836: PASSED *by the Honourable the President of the Council of India in Council, on the* 19*th of June,* 1847, *with the assent of the Right Honourable the Governor-General of India.*

What courts are to sentence to transportation in addition to imprisonment for life.

IT is hereby enacted, that within the territories subject to the Government of the East-India Company, whenever any court not included under the provisions of Act XIV. of 1844 shall sentence any offender to imprisonment for life under the provisions of Act XXX. of 1836, it shall at the same time sentence such offender to transportation beyond sea for life, unless there should be special reasons inducing the court to think such prisoner not a proper subject for transportation, which special reasons the court is hereby directed to record.

A.D. 1847. ACT XIII.

AN ACT *for repealing Act XIV. of* 1839 *so far as it relates to the Emigration of Natives of India to the Island of Ceylon:* PASSED *by the Honourable the President of the Council of India in Council, on the* 21*st of August,* 1847, *with the assent of the Right Honourable the Governor-General of India.*

Preamble.

I. WHEREAS by Act XIV. of 1839 it was enacted, that every person who should make, with any native of India, any contract for labour to be performed in any British or foreign colony without the territories of the East-India Company, or who should knowingly abet or aid any native of India in emigrating from the said territories for the purpose of being employed as a labourer, should be liable, on conviction before a magistrate or justice of the peace, to a fine not exceeding 200 rupees for every native so contracted with, aided, or abetted, and in default of payment of such fine, should be liable to be imprisoned for a term not exceeding three months:

Provided always, that nothing in that Act contained should be taken to apply to any native seaman who should, of his own free will, contract to navigate any vessel, or who should embark on board such vessel in pursuance of such contract, or to any person who should contract to serve as a menial servant only, or who should embark as such menial servant:

And whereas the island of Ceylon geographically, historically, and socially considered, is analogous to the countries subject to the Government of the East-India Company:

Repeals Act XIV., 1839, as it regards Ceylon.

It is hereby enacted, that Act XIV. of 1839, in so far as it makes liable to penalties every person who shall make with any native of India

any contract for labour to be performed in the said island, or who shall knowingly aid or abet any native of India in emigrating from the territories subject to the Government of the East-India Company to the said island, is repealed.

This Act to come into operation when certain provisions shall have been enacted in Ceylon.

II. But whereas the said island is not subject to the legislative power of the Governor-General of India in Council, so that the said Governor-General in Council is unable to make laws for the protection of such natives of India as may emigrate to the said island against the evils which might attend the emigration of such natives of India from the said island to any British or foreign colony:

It is therefore hereby enacted, that this Act shall not come into operation until the Governor-General of India in Council shall be duly certified that the legislature of the said island has made such laws as the said Governor-General in Council shall think sufficient for the protection of such natives of India so emigrating to the said island against the evils aforesaid, and shall notify in the Gazette that he has been so certified.

A.D. 1847. ACT XVII.

AN ACT *for remedying a Defect in the Law regarding undiscovered Defaults in the Prosecution of Suits:* PASSED *by the Honourable the President of the Council of India in Council, on the 6th day of November,* 1847, *with the assent of the Right Honourable the Governor-General of India.*

Preamble

WHEREAS inconvenience has resulted from the rule that the discovery of defaults in the prosecution of suits and appeals brought in any court of the East-India Company, within the territories subject to the Presidencies of Bengal and Madras, invalidates all proceedings in such suits and appeals, which may have been had since the occurrence of such default:

How defaults in the prosecution of suits and appeals may be held to be cured.

It is hereby enacted, that in the said courts every default of a plaintiff or appellant, in all suits or appeals now pending or hereafter to be brought, and in all suits which have been decided but are still open to appeal, shall be held to be cured whenever the opposite party, passing over the default, shall have taken any step in the suit or appeal, and whenever the Court shall have passed judgment in the suit or appeal, whether such opposite party shall or shall not have taken any such step.

A.D. 1847. ACT XIX.

The following Act is brought up before the Legislative Council this day, the 18th December, 1847, the Governor-General of India in Council being desirous that no time should be lost in passing the Act.

AN ACT *to make certain Amendments in the Articles of War for the Government of the Native Officers and Soldiers in the Military Service of the East-India Company.*

Preamble

WHEREAS it is expedient to make certain amendments in the Articles of War provided by Act XX. of 1845, for the Government of the native officers and soldiers in the military service of the East-India Company, and for the administration of justice by courts-martial to be holden on such officers and soldiers:

Repeal of Act XX. 1845

I. It is therefore hereby enacted, that from and after the 1st day of March, 1848, the Articles of War provided by Act XX. of 1845, are repealed.

Enactment of the following Articles of War

II. And it is enacted, that the following Articles of War shall, from and after the said day, be the Articles of War for the Government of the said native officers and soldiers in the military service of the said Company, and for the administration of justice by courts-martial to be holden on such officers and soldiers. Provided always, that all crimes and offences committed against the Articles of War provided by Act XX. of 1845 aforesaid may be inquired of and punished in like manner as if they had been committed against the Articles of War hereby provided; and that every warrant for holding any court-martial under the Articles of War provided by the Act XX. of 1845 aforesaid shall remain in full force notwithstanding the repeal of such Articles; and that all proceedings of any court-martial upon any trial begun under such Articles shall not be discontinued by the repeal of the same.

Reservations

ARTICLES OF WAR.

SECTION I.

Of Inlisting and Discharges.

ARTICLE 1.

Inlisting.

Every recruit, prior to being enrolled in his regiment, shall have the first four articles of the second section of these Articles of War read and explained to him, and when reported fit for duty in the ranks, such declaration as is now used, if any, in the respective Presidencies,

shall be made to him by the officer commanding, in front of the regiment or corps, in presence of the native officers and soldiers; and an oath or declaration shall then be required from him, according to the forms of his religion, such oath and declaration to be the like as are now used in the respective Presidencies.

SECTION I. Of Inlisting and Discharges.

* ARTICLE 2.

Dismissal and discharge.

No commissioned officer shall be dismissed except by the sentence of a general court-martial. No non-commissioned officer or soldier shall be discharged as a punishment except by the sentence of a court-martial, or by order of the Commander-in-Chief at the Presidency to which he may belong. Every such dismissal or discharge shall include forfeiture of all claim to pension. Provided also, that the Governor-General in Council, in his executive capacity, and the Governor in Council of any Presidency to which a commissioned or non-commissioned officer or soldier may belong, shall have power to order his dismissal or discharge.

ARTICLE 3.

Discharge.

All non-commissioned officers and soldiers discharged the service shall be furnished by the commanding officer of the regiment with a discharge certificate, made out in the vernacular language of the individual discharged, with an English translation, expressing the authority for, and cause of, such discharge, and the period of his entire service in the army.

* ARTICLE 4.

Re-inlisting.

No non-commissioned officer or soldier shall inlist himself in any other regiment without a regular discharge from his former regiment, under the penalty of being reputed a deserter, and suffering accordingly.

SECTION II.

Crimes and Punishment.

Crimes punishable with Death, Transportation, Corporal Punishment, Imprisonment, or Dismissal.

ARTICLE 5.

Crimes.

Any officer or soldier, who shall begin, excite, cause, or join in any mutiny or sedition in the regiment or corps to which he belongs, or in any other corps or regiment whatsoever, on any pretence whatever; or who, being present at any mutiny or sedition, shall not use his utmost endeavours to suppress it; or who, coming to the knowledge of any mutiny, intended mutiny, or concealed combination against the state, shall not without delay give information thereof to his commanding officer; — or

ARTICLE 6.

Who shall strike his superior officer, or shall draw or offer to draw, or lift up any weapon, or use or offer any violence, against him; whether on

SECTION II. Crimes and Punishment

Crimes.

or off duty, and under all circumstances in which his superior officer may be distinguishable as such in any manner; — or

ARTICLE 7.

Who shall disobey any lawful command of his superior officer; — or

ARTICLE 8.

Who shall desert from the East-India Company's service (whether or not he shall re-enter or re-inlist in the same); — or

ARTICLE 9.

Who, being a sentry, in time of war or alarm, shall sleep upon his post; or shall leave it before regularly relieved, or without leave; or shall plunder or injure the property placed under his charge; or —

ARTICLE 10.

Who shall shamefully abandon or deliver up any garrison, fortress, post, or guard, committed to his charge, or which it was his duty to defend; or who shall use means to induce any other officer or soldier so to abandon or deliver up any such garrison, fortress, post, or guard; — or

ARTICLE 11.

Who shall treacherously make known the watchword to any person not entitled to receive it, according to the rules and discipline of war; — or

ARTICLE 12.

Who shall hold correspondence with or give intelligence to the enemy, or any person in arms against the state, either directly or indirectly; or who, coming to the knowledge of such correspondence or communication, shall not discover it immediately to the commanding officer; — or

ARTICLE 13.

Who shall directly or indirectly assist or relieve the enemy, or persons in arms against the state, with money, victuals, or ammunition; or shall knowingly harbour or protect any enemy or person in arms against the state; — or

ARTICLE 14.

Who shall treacherously release, wilfully aid, or connive at the escape of any enemy or person in arms against the state, placed as a prisoner under his charge; — or

ARTICLE 15.

Who shall misbehave himself before the enemy, or persons in arms against whom he is led, or use means to induce others so to misbehave; — or

ARTICLE 16.

Who shall, in presence of an enemy, or of persons in arms against whom he is led, shamefully cast away his arms or ammunition; — or

ARTICLE 17.

Who shall leave his commanding officer, or his post, or colours, or party, in time of action, to go in search of plunder; — or

Crimes.

ARTICLE 18.

Who, in time of war, shall do violence to any person bringing provisions or other necessaries to the camp or quarters of the forces; or shall force a safeguard; or break into any house, or other place for plunder; or plunder fields, or gardens, or other property; — or

ARTICLE 19.

Who, in time of war, shall, by discharging fire-arms, drawing swords, beating drums, making signals, using words, or by any means whatever, intentionally occasion false alarms, in action, camp, garrison, or quarters; — or

ARTICLE 20.

Who shall, without proper authority, release any state prisoner, or through carelessness or neglect shall suffer any such prisoner to escape; or shall connive at the plunder or injury of property in time of war, or the plunder or injury of treasure, or of a magazine, or dock-yard, by the sentry or guard in whose charge such property, or treasure, or magazine, or dock-yard is placed; — or

ARTICLE 21.

Who, being a sentry placed over any state prisoner, or over treasure, or over a magazine, or dock-yard, shall quit his post without being regularly relieved, or without leave, or shall sleep upon his post, or shall plunder or injure the property placed under his charge;

Punishment.

Shall, if an officer, on conviction, suffer death, or transportation for life, or be dismissed the service;

And if a soldier, shall, on conviction, suffer death, or transportation for life, or imprisonment with or without hard labour, for life or for any term of years; and with or without solitary confinement, for any portion or portions of the term of imprisonment, not exceeding twenty-eight days at a time, nor eighty-four days in any one year, with intervals between the periods of solitary confinement of not less duration than such periods of solitary confinement; or shall suffer corporal punishment, or dismissal from the service, as by a general court-martial shall be awarded. Provided that no soldier shall be kept in solitary confinement more than eighty-four days in any one year, whether by the sentence of one or more courts-martial, or by order of his commanding officer.

Crimes punishable by General Court-Martial with Dismissal or Suspension of Officers; or by General or District Court-Martial with Dismissal, Reduction, Corporal Punishment, or simple Imprisonment with or without Solitary Confinement, or Loss of Standing on the Roll of Non-commissioned Officers and Soldiers.

ARTICLE 22.

Crimes.

Any officer or soldier who shall, in operations in the field, spread reports

SECTION II. Crimes and Punishment.

Crimes.

by words or letters calculated to create unnecessary alarm in the troops, or in the vicinity, or in the rear of the army; — or

ARTICLE 23.

Who shall in action, or previously to going into action, use words tending to create alarm or despondency; — or

ARTICLE 24.

Who shall be drunk when on, or for duty, or on parade, or on the line of march; — or

ARTICLE 25.

Who shall strike or force any sentry; — or

ARTICLE 26.

Any soldier who shall be grossly insubordinate or insolent to his superior officer in the execution of his office, or grossly insubordinate and violent in the presence of a court-martial; — or

ARTICLE 27.

Who, being on actual service, shall refuse to assist in making field-works;

Punishment.

Shall, if an officer, on conviction, be sentenced to be dismissed the service, or to be suspended from rank and pay and allowances;

And, if a soldier, shall, on conviction before a general or district, or garrison court-martial, be sentenced to suffer such punishment as a general, or district, or garrison court-martial is by these Articles of War respectively empowered to award.

Provided, that such offender shall not be sentenced to death, or transportation, or imprisonment with hard labour.

Crimes punishable by General Court-Martial with Dismissal or Suspension of Officers, or by General or District Court-Martial, with Dismissal, Reduction, Imprisonment with or without hard Labour, and with or without Solitary Confinement, or Loss of Standing on the Roll of Non-commissioned Officers and Soldiers.

ARTICLE 28.

Crimes.

Any officer who shall behave in a manner unbecoming the character of an officer (the fact or facts whereon the charge is grounded being clearly specified therein); — or

ARTICLE 29.

Any officer or soldier who shall advise or persuade any other officer or soldier to desert, or who shall connive at such desertion; or who shall knowingly receive and entertain any deserter, and shall not immediately on discovery give notice to his superior officer; or shall not cause such deserter to be apprehended by the civil power; — or

ARTICLE 30.

Who shall obtain, or attempt to obtain, for himself, or for any officer or

soldier, or for any other person whatsoever, any pension or allowance, by any false statement, certificate, or document, or by the omission of the true statement, or certificate, or document; — or

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Crimes.

ARTICLE 31.

Who shall knowingly make a false return or report, to any his superior officer authorized to call for a return or report, of the state of the men under his command, or of arms, ammunition, clothing, or other stores thereunto belonging, or of which he may have charge; — or

ARTICLE 32.

Who, at any post, or on the march, shall illegally and against the will of the parties extort money or property of any description, as fees or duties, or on any pretence whatever; or shall, without authority, exact from villagers or others, carriage, porterage, or provisions; — or

ARTICLE 33.

Who shall wantonly and intentionally defile any place dedicated to religious worship, or shall wantonly and intentionally insult the religious prejudices of other persons;

Shall, if an officer, on conviction, be sentenced to be dismissed the service, or to be suspended from rank and pay and allowances;

Punishment.

And, if a soldier, shall, on conviction before a general, district, or garrison court-martial, be sentenced to suffer such punishment as a general, or district, or garrison court-martial is by these Articles of War respectively empowered to award.

Provided, that such offender shall not be sentenced to death, or transportation, or corporal punishment.

Crimes punishable by General Court-Martial with Dismissal or Suspension of Officers; or by any Court-Martial with Dismissal, Reduction, Imprisonment with or without hard Labour, and with or without Solitary Confinement, or Loss of Standing on the Roll of Non-commissioned Officers and Soldiers.

ARTICLE 34.

Any officer or soldier, who, being under arrest or in confinement, shall leave his arrest or confinement before he is set at liberty by competent authority; — or

Crime

ARTICLE 35.

Who shall malinger, feign, or intentionally produce disease or infirmity; or intentionally delay his cure; or intentionally aggravate his disease or infirmity; — or

ARTICLE 36.

Who shall, without orders, commit any waste, or spoil, or plunder, or shall injure or destroy any property; — or

ARTICLE 37.

Any soldier who shall, contrary to orders, when off duty, appear in or

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about camp or cantonments, or on occasion of visiting towns or bazars, carrying a sword, bludgeon, or other weapon; — or

Crimes.

ARTICLE 38.

Who shall sell, pawn, or designedly or through neglect lose or injure his horse, arms, clothes, accoutrements, or regimental necessaries; or any of the above articles entrusted or belonging to any other soldier;

Punishment

Shall, on conviction before a general, district, or garrison, or regimental court-martial, be sentenced to suffer such punishment as such courts-martial respectively are by these Articles of War empowered to award.

Provided that such offender shall not be sentenced to death, or transportation, or corporal punishment.

Embezzlement; punishable by General Court-Martial with Dismissal, Fine, and Imprisonment with or without hard Labour, and with or without Solitary Confinement, of Officers and Soldiers.

ARTICLE 39.

Crimes

Any officer or soldier, who shall embezzle or fraudulently misapply any money entrusted to him on the public account, or for any military purpose; or any provisions, forage, arms, clothing, ammunition, or military stores, of whatever kind or description, the property of Government, entrusted to his charge; or who shall wilfully spoil such property, or suffer it to be spoiled; or shall be concerned in, or connive at, any such embezzlement or fraudulent misapplication;

Punishment

Shall, on conviction before a general court-martial, be dismissed the service, and fined to the extent of his arrears of pay and allowances; and be further liable to suffer imprisonment with or without hard labour, for a term which may extend to three years, and with or without solitary confinement (to be regulated as aforesaid).

Disgraceful Conduct; punishable by General or District Court-Martial, with Corporal Punishment, or Imprisonment with or without hard Labour and Solitary Confinement, and in addition with Forfeiture of additional Pay and of Pension on Discharge, and Stoppages, of Non-commissioned Officers and Soldiers.

ARTICLE 40.

Any soldier who shall be guilty of *disgraceful conduct;*

Crimes.

In wilfully maiming or injuring himself, or any other soldier at the instance of such soldier, with intent to render himself or such soldier unfit for the service, or with intent to take his own life; — or

ARTICLE 41.

In purloining or selling Government stores; — or

ARTICLE 42.

In stealing money or goods, the property of a soldier, or of a military

officer, or of any military mess, or of any person or persons belonging to or serving with or attached to the army; — or

SECTION II. Crimes and Punishment.

Crimes.

ARTICLE 43.

In plundering or injuring property placed under his charge as sentry, or in charge of his guard, or in conniving at the plunder or injury of such property; — or

ARTICLE 44.

In embezzling or fraudulently misapplying public money entrusted to him for any military purpose; — or

ARTICLE 45.

In committing any petty offence of a fraudulent or dishonest nature, to the injury of, or with intent to injure the Government, or any person, civil or military; — or

ARTICLE 46.

Who shall be guilty of any other disgraceful conduct, being of a cruel, indecent, or unnatural kind;

Punishment.

Shall, on conviction before a general, or district, or garrison court-martial, be liable to suffer such punishments as any such courts are by these Articles of War respectively empowered to award for disgraceful conduct.

And every such offender shall, if not dismissed the service, further be put under stoppages, by sentence of the court, not exceeding half of his monthly pay and allowances, until the amount be made good of any loss or damage arising out of his misconduct.

And if such offender shall be dismissed the service, he shall further be sentenced to forfeit his arrears of pay and allowances due at the time of his discharge, or in such proportion as may be required to make good such loss or damage.

Crimes punishable by General Court-Martial with Suspension or Reprimand of Officers; or by any Court-Martial with Dismissal, Reduction, or simple Imprisonment with or without Solitary Confinement, or Loss of Standing on the Roll, of Non-commissioned Officers and Soldiers.

ARTICLE 47.

Crimes.

Any officer, or non-commissioned officer, who shall strike or otherwise ill-treat any soldier; — or

ARTICLE 48.

Any sentry who, in time of peace, shall sleep upon his post, or shall leave it before regularly relieved or without leave; — or

ARTICLE 49.

Any officer, or soldier, who shall knowingly enlist a deserter, or connive at his enlistment; — or

ARTICLE 50.

Who, directly or indirectly, shall require or accept a bribe, present, or

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Crimes.

gratification, on the pretence of, or as a consideration for procuring leave of absence, promotion, or any other advantage or indulgence for any officer or soldier; — or

ARTICLE 51.

Who, being in command at any post, or on the march, on complaint made to him of any person under his command beating or otherwise ill-treating any person, or extorting from him more than he is obliged to furnish by authority, or disturbing fairs or markets, or committing any kind of riot, shall not see reparation done to the party or parties injured, or if that be impracticable, shall not report the same to his superior officer; — or

ARTICLE 52.

Who, being in command of a guard, shall refuse to receive any prisoner duly committed to his charge, or shall, without proper authority, release any prisoner, or shall suffer, through carelessness or neglect, any prisoner to escape; — or

ARTICLE 53.

Who shall quit his guard, or picquet, in time of peace, without being regularly relieved, or without leave; — or

ARTICLE 54.

Who shall impede the provost marshal, or his assistants, or any other officer or person legally exercising authority, or refuse to assist him when requiring his aid in the execution of his duty; — or

ARTICLE 55.

Who, being on leave of absence, shall have received information from the head quarters of his regiment, or from other competent authority, that his regiment has been ordered on service, and shall not rejoin without delay; — or

ARTICLE 56.

Who, in time of peace, shall, by discharging fire-arms, drawing swords, beating drums, or by any other means whatever, intentionally occasion false alarms in camp, garrison, or cantonments; — or

ARTICLE 57.

Who shall fail to repair at the time fixed to the parade, or place appointed, for exercise or duty, if not prevented by sickness or some other sufficient cause; — or

ARTICLE 58.

Who shall, without urgent necessity, or without leave of his superior officer, quit his company, or troop, or the parade; — or

ARTICLE 59.

Who shall absent himself without leave, or shall, without sufficient cause, overstay the period for which leave may have been granted him; — or

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Crimes.

ARTICLE 60.

Any soldier who shall be found two miles from the camp contrary to orders; — or

ARTICLE 61.

Who shall, contrary to orders, be absent from his cantonment after tatoo, or from camp after retreat-beating; — or

ARTICLE 62.

Who shall sell, lose, designedly, or through neglect, waste the ammunition delivered out to him;

Punishment.

Shall, if an officer, on conviction, be sentenced to suspension from rank and pay and allowances, or to be reprimanded in such manner as the Commander-in-Chief may direct;

And if a soldier, shall, on conviction before a general, or district, or garrison, or regimental court-martial, be sentenced to suffer such punishment as any such courts-martial are by these Articles of War respectively empowered to award;

Provided that such offender shall not be liable to be sentenced to suffer corporal punishment or imprisonment with hard labour.

ARTICLE 63.

Crimes not specified.

All crimes not capital, and all disorders or neglects which officers or soldiers may be guilty of, to the prejudice of good order and military discipline, though not specified in these Articles, are to be taken cognizance of by courts-martial, and to be punished according to the nature and degree of the offence, by the sentence of a general, or district, or garrison, or regimental court-martial; provided that a soldier shall not, for any such offences, be liable to be sentenced to suffer corporal punishment or imprisonment with hard labour.

Crimes incident to Courts-Martial, punishable by General Court-Martial, with Dismissal or Suspension of Officers, and by any Court-Martial with Dismissal or Reduction of Non-commissioned Officers, and with Dismissal or simple Imprisonment of Soldiers.

ARTICLE 64.

Crime.

Any person amenable to these Articles of War, who, when duly summoned before a court-martial, shall not attend, or shall refuse to be sworn, or to make affirmation, or to answer any lawful question, or who shall induce any other person so to offend;

Punishment.

Shall be punished according to the sentence of the same or another court-martial, with dismissal, or suspension from rank, and pay, and allowances, if a commissioned officer; with dismissal, or reduction to the ranks, if a non-commissioned officer; or with dismissal, or imprisonment, if a soldier;

Provided that such person, being a commissioned officer, shall not be liable to be punished by any but a general court-martial, and that no offender punished under the provision of this Article of War shall be

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sentenced to suffer imprisonment with hard labour, or corporal punishment.

ARTICLE 65.

Persons not amenable to Articles of War to be delivered over to magistrate.

Any person not amenable to these Articles of War, who, having been summoned before any court-martial, shall refuse or neglect to attend, or who, attending, shall refuse to be sworn, or to make affirmation, or to answer any lawful question, or shall give such testimony as, if given in a criminal court, would render him guilty of perjury, or who shall induce any other person so to offend;

Shall be delivered to a magistrate to be proceeded against according to law.

ARTICLE 66.

Contempt of court

Any person using menacing or disrespectful words, signs, or gestures, in the presence of a court-martial then sitting, or causing any disorder or riot so as to disturb their proceedings;

Punishment

Shall be punished according to the condition of the offender and the nature and degree of his offence, by the sentence of the same or another court-martial, if he be amenable to these Articles of War; provided that such offender shall not be liable to be sentenced to corporal punishment or to imprisonment with hard labour: and if not amenable to these Articles of War, the offender shall be delivered over to a magistrate to be proceeded against according to law.

Perjury; punishable by General or District Court-Martial with Dismissal, and in addition with Fine, or simple Imprisonment, of Officers and Soldiers.

ARTICLE 67.

Perjury.

Any officer or soldier who shall be found guilty of wilfully and knowingly giving false evidence, on oath or affirmation, on any trial before any general or other court-martial, or any military court entitled to administer an oath, or of inducing any other person so to offend;

Punishment.

Shall be dismissed the service, and shall be further subject to fine to the amount of his arrears of pay and allowances, or to imprisonment which may extend to three years, according to the sentence of a general, or district, or garrison court-martial.

Crimes admitting of less serious Notice.

ARTICLE 68.

Minor crimes

Whereas it may be advisable that some of the offences which, by the foregoing Articles, are directed to be tried by a general, or district, or garrison court-martial, should, in certain cases which admit of less serious notice, be tried by district, or garrison, or regimental courts-martial, in such cases the officer commanding the regiment or corps to which the offender belongs may, if he thinks it expedient and for the good of the service, order the offender to be tried by regimental court-martial, for any offence ordinarily cognizable by district or garrison court-martial, making how-

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Minor crimes.

ever a report in every such case, for the information of the general officer commanding the division, of the reasons of his having so proceeded; or such commanding officer may lay a particular statement of the case before the general or other officer having authority to convene general, or district, or garrison courts-martial, under whose command such offender may be serving, with an application for permission to try the offender by district, or garrison, or regimental court-martial, and such general or other officer will exercise his discretion in complying or not with such application; but the permission of such general or other officer so to proceed shall be entered upon the proceedings at the trial of such offender.

Provided that mutiny shall not be considered one of the offences admitting of such discretionary investigation.

And that in cases where offences designated "disgraceful conduct" in these Articles of War, and admitting of less serious notice, shall be tried by regimental courts-martial, the term "disgraceful conduct" shall be omitted in the charge, and the offender shall, on conviction, be liable to suffer such punishment as a regimental court-martial is, by these Articles of War, empowered to award.

Offences on the Line of March or on board Vessels.

ARTICLE 69.

Offences on the line of march or on board vessels.

For offences committed on the line of march, or on board any ship or other vessel, the officer in command of the troops is hereby authorized to try any soldier by a regimental or detachment court-martial, and to confirm and execute the sentence on the spot;

Provided that such sentence shall in no case exceed that which a regimental court-martial is competent to award, and that the proceedings held in all such cases shall be transmitted for the information of the Commander-in-Chief.

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Administration of Justice.

ARTICLE 70.

Arrest or confinement.

Whenever any officer or soldier shall commit a crime deserving punishment by court-martial, he shall, by his commanding officer, be put under arrest, if an officer or non-commissioned officer, or if a soldier, be confined until he shall be either tried by a court-martial, or shall be lawfully discharged by a proper authority; and no officer or soldier who shall be put in such arrest or confinement shall continue in his confinement longer than may be actually unavoidable.

Resistance to arrest.

And such process of arrest or confinement, or an attempt to effect such process, shall in no case be omitted where it may be practicable; but where resistance may be made, or from other circumstances, such process

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may be impracticable, the offender or offenders shall be liable to trial and punishment at any subsequent period, within the limitations provided in these Articles of War.

ARTICLE 71.

Limitation of time.

No person shall be liable to be tried or punished for any offence against these Articles, which shall appear to have been committed more than three years previous to the order directing the assembly of the court-martial whereby he is to be tried, unless the person accused, by reason of his absenting himself, or some other manifest impediment, shall not have been amenable to justice within that period, in which case such person shall be liable to be tried, at any time not exceeding two years after the impediment shall have ceased.

ARTICLE 72.

Offenders may be tried elsewhere than where the offence was committed.

Any person amenable to these Articles of War, who may commit any offence against the same, may be tried and punished for such offence in any place within the British territories, or elsewhere, where he may have come after the commission of the offence, in the same manner as if the offence had been committed where such trial shall take place.

ARTICLE 73.

Powers of the Commander-in-Chief in respect of courts-martial.

The Commander-in-Chief at the Presidencies of Fort William, Fort St. George, and Bombay respectively for the time being, may appoint general or other courts-martial, and confirm, and mitigate or commute, or remit the sentences of such courts; and may issue his warrant to any general or other officer having the command of a body of troops in the service of Her Majesty, or of the East-India Company, empowering such officer to appoint general, or district, or garrison courts-martial as occasion may require, for the trial of offences committed by any of the officers, or soldiers, or followers in the service of the said Company, being natives of the East Indies, or of other places within the limits of the said Company's Charter, and to confirm, and mitigate or commute, or remit the sentences of such courts-martial.

ARTICLE 74.

Constitution of a general court-martial.

A general court-martial shall not consist of less than thirteen commissioned officers, unless it be held out of the East-India Company's territories, where such court-martial may consist of seven commissioned officers, if a greater number cannot be conveniently assembled. And no sentence of a general court-martial shall be put in execution until after a report shall have been made of the whole proceedings to the Commander-in-Chief, or to some other person duly authorized to confirm the same, and until his directions shall have been signified thereupon.

Powers of a General Court-Martial.

*ARTICLE 75.

Death or transportation.

A general court-martial may sentence any officer or soldier to death or transportation, for any crimes which are by these Articles of War expressly

made liable to sentence of death or transportation, and for such crimes only.

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Dismissal or suspension.

And when a commissioned officer shall be convicted of any offence, of which the punishment is not defined in these Articles of War, or is left discretionary, a general court-martial may adjudge such officer to be dismissed the service; or to be suspended from rank and pay and allowances, for a stated period, or to be placed lower on the list of his rank, by an alteration of the date of his commission, thereby losing the corresponding benefit of length of service; and the court shall in every such sentence specify the extent or degree of suspension or reduction, which they shall so adjudge; or the court may sentence such officer to be reprimanded in such manner as the Commander-in-Chief may direct.

Reduction to ranks or dismissal.

And a general court-martial may sentence any non-commissioned officer to be reduced to the ranks; or may sentence any non-commissioned officer or soldier to be dismissed the service, or to be placed lower in the list of the rank which he holds (which shall not involve any forfeiture of service or other advantage, except that of standing); or may sentence any soldier to suffer corporal punishment not exceeding fifty lashes, or imprisonment with or without hard labour not exceeding two years, and to be kept in solitary confinement for any portion or portions of such imprisonment, not exceeding twenty-eight days at a time, nor eighty-four days in any one year, with intervals between the periods of solitary confinement, of not less duration than such periods of solitary confinement. Provided that no soldier shall be kept in solitary confinement more than eighty-four days in any one year, whether by the sentence of one or more courts-martial, or by order of his commanding officer.

Corporal punishment, imprisonment, or solitary confinement.

Forfeiture of pay and pension.

And a general court-martial may, in addition either to corporal punishment or to imprisonment as aforesaid, sentence a soldier to forfeiture of all advantage as to additional pay and to pension on discharge, which might have otherwise accrued from the length or nature of his former service; or to forfeiture of such advantage absolutely, whether it might have accrued from past service, or might accrue from future service, according to the nature of the case, for disgraceful conduct.

Forfeiture of arrears and allowances.

And a general court-martial may, in addition to the punishment of dismissal, sentence any officer or soldier to forfeit his arrears of pay and allowances due at the time of his discharge, or such proportion thereof as may be required, to make good any loss or damage arising out of his misconduct: and, in addition to any punishment not involving dismissal from the service, may sentence any officer or soldier to be put under stoppages not exceeding two-thirds of his pay and allowances in the case of an officer, and not exceeding half of his pay and allowances in the case of a non-commissioned officer or soldier, until the amount of such loss or damage be made good.

Confirmation and Commutation of Sentence by the Commander-in-Chief.

ARTICLE 76.

Sentence of death.

In cases wherein a sentence of death shall have been awarded by a general court-martial, for any offence against discipline for which sentence of death is awardable under these Articles of War, the Commander-in-

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Chief may confirm such sentence and cause it to be carried into effect, or may, instead of causing such sentence to be carried into effect, order the offender, if an officer, to be transported for life, or to be imprisoned for any term of years, or to be dismissed; and, if a soldier, to be transported for life, or to be imprisoned with or without hard labour either for life, or for a certain term of years, and with or without solitary confinement (to be regulated as aforesaid), as to the Commander-in-Chief may seem meet.

Transportation of officers.

Dismissal of officers

In cases of commissioned officers sentenced to transportation, the Commander-in-Chief may in lieu thereof order the offender to be imprisoned for any term of years, or to be dismissed. And in cases of commissioned officers sentenced to be dismissed from the service, the Commander-in-Chief may, in lieu of such punishment, direct, that the offender be suspended from rank and pay and allowances for a certain period, to be distinctly specified by the Commander-in-Chief.

Transportation of soldiers.

And the Commander-in-Chief may commute a sentence of transportation passed on a soldier, to imprisonment with or without hard labour, and with or without solitary confinement (to be regulated as aforesaid); and such imprisonment may be either for the same period for which transportation shall have been awarded, or for any lesser period.

Corporal punishment.

And the Commander-in-Chief may commute a sentence of corporal punishment to dismissal from the service; or, in the case of a non-commissioned officer, may mitigate such sentence to reduction to the ranks; or, in the case of a non-commissioned officer or soldier, may commute such sentence to imprisonment without hard labour, and with or without solitary confinement (to be regulated as aforesaid), for any period not exceeding two years.

Dismissal of non-commissioned officers

In cases of non-commissioned officers sentenced to be dismissed from the service, the Commander-in-Chief may, in lieu of such punishment, direct that the offender be reduced to the ranks, or placed lower in the list of the rank which he holds; (which shall not involve any forfeiture of service or other advantage, except that of standing).

Imprisonment with hard labour.

And in cases of offenders sentenced to imprisonment with hard labour, the Commander-in-Chief may mitigate such sentence by causing the offender to be reduced to the ranks, in the case of a non-commissioned officer; or in the case of a non-commissioned officer or soldier, by directing that he be dismissed from the service, or suffer imprisonment without hard labour, and with or without solitary confinement (to be regulated as aforesaid), for any period not exceeding that for which he shall have been sentenced to such imprisonment with hard labour.

ARTICLE 77.

Constitution of a district court-martial.

A district or garrison court-martial shall consist of not less than seven commissioned officers, except in situations where that number cannot be conveniently assembled, when such court may consist of not less than five commissioned officers. And such district or garrison court-martial may be composed of officers of the same regiment, and shall be assembled in conformity with the orders of the Commander-in-Chief.

Confirmation of their sentence.

And the sentence of a district or garrison court-martial shall be confirmed by the Commander-in-Chief, or by some officer duly authorized to confirm the same.

Commutation of Sentence.

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Power of Commander-in-Chief to commute sentence.

And the Commander-in-Chief is empowered to remit, or mitigate, or commute the sentences of such courts-martial, in the same manner as the sentences of general courts-martial; and to delegate to or withhold from commanding officers the power of convening such courts-martial, and of confirming, remitting, mitigating, or commuting the sentences of such courts (not including forfeiture of pay or pension or other advantage), as the Commander-in-Chief may deem to be most expedient.

And in case of any sentence, including forfeiture of additional pay or of pension on discharge, or of any prospective advantage, such sentence shall not be carried into effect until confirmed by the Commander-in-Chief; and all forfeitures of any present or prospective advantage shall be restorable by the same authority.

Powers of a District or Garrison Court-Martial.

*ARTICLE 78.

Powers of a district or garrison court-martial.

A district or garrison court-martial may sentence any non-commissioned officer to be reduced to the ranks; or may sentence any non-commissioned officer or soldier to be dismissed from the service, or to be placed lower in the list of the rank which he holds (which shall not involve any forfeiture of service or other advantage, except that of standing); or may sentence any soldier to suffer corporal punishment not exceeding fifty lashes, or imprisonment with or without hard labour not exceeding one year, and to be kept in solitary confinement (to be regulated as aforesaid).

And such court-martial may, in addition either to corporal punishment or to imprisonment as aforesaid, sentence a soldier to forfeiture of all advantage as to additional pay, and to pension on discharge, which might have otherwise accrued from the length or nature of his former service, or to forfeiture of such advantage absolutely, whether it might have accrued from past service, or might accrue from future service, according to the nature of the case, for disgraceful conduct.

And such court-martial may, in addition to the punishment of dismissal, sentence any non-commissioned officer or soldier to forfeit his arrears of pay and allowances due at the time of his discharge, or such proportion thereof as may be required to make good any loss or damage arising out of his misconduct; and in addition to any punishment not involving dismissal from the service, may sentence any non-commissioned officer or soldier to be put under stoppages not exceeding half of his pay and allowances, until the amount of such loss or damage be made good.

ARTICLE 79.

Regimental courts-martial.

A regimental court-martial shall consist of not less than five commissioned officers (unless it be found impracticable to assemble that number, when three may be sufficient); and shall be assembled by order of the officer commanding the regiment. And no sentence of a regimental court-martial shall be of force until the commanding officer shall have confirmed the same. Provided that such commanding officer shall have

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power to remit all sentences whatever passed by such court, and thereupon to cause the offender to be released and to return to his duty.

Commutation of Sentence.

Commutation of sentence.

And such commanding officer shall have power to confirm and carry into effect or to mitigate all sentences whatever passed by such court; and to commute a sentence of corporal punishment to imprisonment without hard labour, and with or without solitary confinement (to be regulated as aforesaid), for any period for which such court is competent to sentence an offender to suffer imprisonment, and in the same manner; and to mitigate a sentence of dismissal, in the case of a non-commissioned officer, to reduction to the ranks; and to commute a sentence of imprisonment with hard labour, to dismissal, or to mitigate such sentence to reduction to the ranks, or to imprisonment without hard labour.

Powers of a Regimental Court-Martial.

ARTICLE 80.

Powers of a regimental court-martial.

A regimental court-martial may sentence any non-commissioned officer to be be reduced to the ranks; or may sentence any non-commissioned officer or soldier to be dismissed from the service, or to be placed lower in the list of the rank which he holds (which shall not involve any forfeiture of service or other advantage, except that of standing); or may sentence any soldier to suffer corporal punishment not exceeding fifty lashes, or imprisonment, with or without hard labour, for any period not exceeding six calendar months, and to be kept in solitary confinement (to be regulated as aforesaid).

Any such court-martial may, in addition to the punishment of dismissal, sentence any non-commissioned officer or soldier to forfeit his arrears of pay and allowances due at the time of his discharge, or such proportion thereof as may be required to make good any loss or damage arising out of his misconduct, and in addition to any punishment not involving dismissal from the service, may sentence any non-commissioned officer or soldier to be put under stoppages not exceeding half of his pay and allowances, until the amount of such loss or damage be made good.

ARTICLE 81.

Detachment courts-martial.

An officer commanding any detachment of his own regiment may assemble regimental detachment courts-martial, and an officer commanding a detachment consisting of men of different corps may assemble detachment or line courts-martial, and all such courts shall be constituted in the same manner as regimental courts-martial under the provisions of these Articles of War, and shall have the like powers.

And the provisions of these Articles of War relating to courts-martial held in regiments shall be taken to apply to courts-martial held in detachments, in all practicable cases.

Provided that no officer on detached command of less than four troops

or companies, or of detachments numerically equal to four troops or companies, and not being on the line of march or on board any ship or other vessel, shall carry into effect any punishment awarded by a court-martial held by his order, until the sentence shall have been confirmed by the officer commanding the regiment to which the offender belongs, or by the nearest superior officer holding a command of not less than a regiment (who is hereby authorized to confirm the same, in like manner as an officer commanding a regiment is empowered to do), except in detached situations beyond sea or out of the British territories, or when on service in the field, or in cases where an immediate example is necessary and reference cannot be made to such commanding or superior officer without detriment to the service, when the officer commanding such detachment may exercise the powers which are vested in an officer commanding a regiment.

ARTICLE 82.

Powers of officer convening courts-martial.

At all courts-martial, it shall be competent to the officer convening the court to instruct the court, that, should the prisoner be found guilty, and imprisonment form a part of the sentence, no portion of the imprisonment should be solitary; or should corporal punishment be awardable to the offender, that it shall not be awarded in the particular case, and the court will govern itself accordingly, and such instruction shall be in writing, and shall be attached to the proceedings of the court.

Execution of Sentences of Courts-Martial.

ARTICLE 83.

Execution of sentence of death.

In every sentence of death awarded by a general court-martial, the court shall specify that the offender shall "suffer death by being hanged by the neck until he be dead," or "by being shot to death," as the court in their discretion shall deem expedient, and such sentence, if confirmed, shall be carried into effect accordingly.

ARTICLE 84.

Transportation.

Whenever the sentence of a general court-martial shall adjudge transportation, or sentence of death shall be commuted by competent authority to transportation, any of the Sudder Courts shall give effect to such sentence, or commuted sentence, on the same being certified to the court under the authority of the Commander-in-Chief.

Imprisonment.

And whenever any sentence of a court-martial shall adjudge imprisonment with hard labour, or with solitary confinement, or both; or whenever the sentence of a court-martial shall be commuted to any such imprisonment, it shall be the duty of every judge, magistrate, sheriff, or other officer in charge of a gaol, to give effect to such sentence, on the offender being delivered into his custody, and on being furnished with a copy of the sentence by the officer commanding the station, or regiment, or detachment, within which the trial is held.

ARTICLE 85.

Imprisonment for life.

Whenever any soldier shall be sentenced to imprisonment for life, or a

SECTION III. Administration of Justice.

sentence of death shall be commuted to imprisonment for life, it shall be lawful for the Commander-in-Chief to order such offender to be transported beyond sea for life, and such order shall thereupon be made, unless there should be special reasons inducing the Commander-in-Chief to think such prisoner not a proper subject for transportation.

ARTICLE 86.

Place of imprisonment.

Persons sentenced to imprisonment by courts-martial shall be imprisoned in any public prison or in any other fit place which the Commander-in-Chief shall, from time to time, direct.

ARTICLE 87.

Dismissal from service.

Every soldier sentenced to imprisonment with hard labour shall, previous to undergoing such punishment, be struck off the strength of his corps from the date of confirmation of such sentence; and no soldier who has undergone such punishment for any period shall be capable of being readmitted in the ranks, or of receiving pension on discharge.

ARTICLE 88.

Dismissal with ignominy.

Offenders sentenced to dismissal for digraceful conduct;

And offenders subject to corporal punishment, or to imprisonment with hard labour for disgraceful conduct, shall, on any such sentence being confirmed, be dismissed with ignominy.

ARTICLE 89.

Stoppage of pay.

In every case wherein a fine, or forfeiture of arrears of pay, or stoppages shall be adjudged by a court-martial, any pay or public money due to the offender, or that may become due to him, shall be available, with the sanction of the Commander-in-Chief, for the payment of the amount so adjudged.

Limitation.

And no soldier sentenced to pay a fine, or to stoppages to make good any loss or damage arising out of his misconduct, shall be continued under forfeiture or stoppages under any one such sentence for any period exceeding one year; and no soldier shall be at any one time placed under forfeiture or stoppages exceeding in the whole the amount of half of his pay and allowances, nor be liable to be put under stoppages prospectively while actually under stoppages to the amount of half of his pay and allowances.

Forms of Proceeding.

ARTICLE 90.

Hours of court sitting.

Trials by courts-martial may be carried on between the hours of six in the morning and four in the afternoon, and not otherwise, except in cases which may require an immediate example.

ARTICLE 91.

Judge advocate.

At general courts-martial a judge advocate, or an European officer of not less than ten years' service, shall be appointed to conduct the proceedings.

At all courts-martial inferior to general, an European officer of not less than four years' standing in the service, except in cases where no officer of that standing may be available, or the adjutant of the regiment, shall be appointed to conduct the proceedings.

ARTICLE 92.

Interpreter.

An interpreter shall be appointed to all courts-martial, and any interpreter or other competent person available at the station where the court-martial may sit, shall be appointed as occasion may require by the officer commanding at such station, on application from the judge-advocate or superintending officer at such court-martial. But in situations where the services of an interpreter or other competent person are not available, the superintending officer at the court-martial shall perform the duty of interpreter.

ARTICLE 93.

President.

At all the courts-martial the senior officer shall sit as president without being so appointed by warrant. Provided that all subadar majors are to take precedence according to the dates of their commissions, and above all native officers holding the rank of subadar or jemadar; and that sirdar bahadoors and bahadoors shall rank only according to their respective commissions of subadar major, subadar, or jemadar. Rissaldars and rissaidars will take rank with subadars, and naib rissaldars with jemadars, according to the dates of their respective commissions.

Death or absence of president.

In case of the death or unavoidable absence of the president, the next senior member shall take the place of president, and the trial shall proceed, provided that the court shall still consist of at least the number of members of which such court is directed to consist by these Articles of War.

ARTICLE 94.

Revision of sentence.

No finding or sentence of a court-martial shall be revised more than once, and no evidence shall be received on such revision. For the purpose of such revision, the president and all the members shall be convened if possible; but if any of them should be unavoidably absent, the remaining members may proceed with such revision, provided they are not fewer than the smallest number directed in these Articles respectively. When all the same members do not meet, the circumstances are to be duly certified on the face of the proceedings.

Manner of Voting.

ARTICLE 95.

Manner of voting.

All the members of a court-martial are to preserve order, and in giving their votes upon all matters are to begin with the youngest; and in all cases where a sentence of death may not be awarded, the decision shall be by the majority of members present, provided the number of members present be not less than that required by the preceding Articles; but in case of an equality of votes, the decision shall be in favour of the prisoner. The president at a court-martial shall vote with the other members, but shall have no casting vote; provided, that in cases of an equality of votes

SECTION III. Administration of Justice.

upon other questions than the finding and the sentence, the president shall have a casting vote.

ARTICLE 96.

Sentence of death.

No sentence of death shall be given against any offender by a court-martial, unless two-thirds of the members present concur therein, or four where the court consist of five members, or five where the court consist of seven.

Affirmations.

ARTICLE 97.

Interpreter's affirmation.

On the assembly of a court-martial, the judge-advocate, or superintending European officer, shall administer to the interpreter the following solemn affirmation :—

"I, A. B., solemnly affirm in the presence of Almighty God, that I will faithfully interpret and translate the proceedings of the court, and that I will not divulge the sentence until it shall have been published by authority; and further, that I will not disclose or discover the vote or opinion of any particular member of the court unless required to give evidence thereof by a court of justice or court-martial in due course of law."

In case of the unavoidable absence of an interpreter, the European superintending officer of a court-martial inferior to general, shall make the solemn affirmation prescribed for the interpreter.

Member's affirmation

The judge advocate or superintending officer shall then cause the following solemn affirmation to be made by each member :—

"I, A. B., solemnly affirm in the presence of Almighty God, that I will duly administer justice according to the Articles of War, without partiality, favour, or affection; and, if any doubt shall arise, then, according to my conscience, the best of my understanding, and the custom of war in the like cases; and that I will not divulge the sentence of the court until it shall be published by authority; and further, that I will not disclose or discover the vote or opinion of any particular member of the court, unless required to give evidence thereof by a court of justice or a court-martial in due course of law."

Judge advocate's affirmation.

The following solemn affirmation shall then be administered by the interpreter to the judge-advocate or superintending officer :—

"I, A. B., solemnly affirm in the presence of Almighty God, that I will not upon any account whatsoever disclose or discover the vote or opinion of any particular member of the court-martial, unless required to give evidence thereof as a witness by a court of justice or a court-martial in due course of law, and that I will not, unless it be necessary for the due discharge of my official duties, disclose the sentence of the court, until it shall be published by authority."

Provided, that it shall be necessary to re-administer these solemn affirmations on the commencement of fresh trials before the same court.

*ARTICLE 98.

Witnesses' oath or affirmation.

All persons who give evidence at a court-martial are to be examined on oath according to the forms of their respective religions, or on affirmation;

and persons of the Hindoo or Mahomedan persuasion, and other persons making affirmation, shall make affirmation to the following effect:—

"I solemnly affirm, in the presence of Almighty God, that what I shall state shall be the truth, the whole truth, and nothing but the truth."

And if any person making such affirmation as aforesaid shall wilfully and falsely state any matter or thing which, if the same had been sworn, would have amounted to perjury, every such offender shall be subject to the same punishment to which persons convicted of perjury are subject.

Summoning Witnesses not amenable to these Articles.

ARTICLE 99.

Summoning witnesses not military.

In all cases where persons required as witnesses before a court-martial may not be amenable to military law, the judge-advocate or commanding officer shall transmit to the magistrate within whose jurisdiction the witness may reside, his summons for the attendance of such person, and the magistrate shall cause the witness to be duly summoned.

Powers and Duties of Provost Marshals.

ARTICLE 100.

Powers and duties of provost marshals.

For the prompt and instant repression of all irregularities and crimes which may be committed by troops in the field and on the line of march, provost marshals shall be appointed by the Commander-in-Chief, and their powers shall be regulated according to the established usages of war and rules of the service; their duties are to take charge of prisoners confined for offences of a general description; to preserve good order and discipline; to prevent breaches of both, by soldiers and followers of the army, and to punish on the spot, on the same day, those whom they may find in the immediate act of committing breaches of good order and military discipline: Provided, that the punishment be limited to the necessity of the case, and shall accord with the orders which the provost marshals may from time to time receive from the commander of the forces in the field; and that whatever may be the crime, the provost marshal or his assistant shall see the offender commit the act for which summary punishment may be inflicted; or if the provost marshal or his assistant should not see the offender actually commit the crime, but that sufficient proof can be established of the offender's guilt, a report shall be made to the commander of the army in the field, who is hereby empowered to deal with the case as he may deem most conducive to the maintenance of good order and military discipline. The duties of provost marshals being limited to the punishment of offenders whom they may detect in the actual commission of any crime, the general commanding the forces in the field will cause them to exercise the powers intrusted to them in such manner and under such circumstances as he may consider best calculated to prevent and instantly to repress crimes injurious to the discipline of the East-India Company's army and the public service.

SECTION III.
Administration of Justice.

Trials by European Courts-Martial.

ARTICLE 101.

Trials by European courts-martial.

At any Presidency where the native troops have hitherto been authorized to claim to be tried by European courts-martial, every person amenable to these Articles of War, and who may be under orders for trial by a court-martial, shall have the right to claim to be tried by European officers; and should he make such claim, the court, whether general, district, or garrison, or regimental, shall be composed of European commissioned officers, and the number of members and the proceedings shall be governed in all respects by the provisions of these Articles.

And it shall be competent to the Governor-General of India in Council, by a General Order, to authorize the native troops of any of the Presidencies to claim to be tried in like manner by European courts-martial.

SECTION IV.

Effects of the Dead.

*ARTICLE 102.

Effects of the dead.

When any officer or soldier, or any person receiving public pay drawn by any officer in charge of a public department belonging to the army, may die, or be killed in the service, the commanding officer of the regiment or party, or officer in charge of the department, shall, if no heir or executor be present, secure his effects, and direct an inventory thereof to be taken, a duplicate of which is to be lodged in the office of the adjutant, or officer in charge of the department.

*ARTICLE 103.

Sale of effects.

If there be no heir or executor on the spot, the effects are to be publicly sold; the commanding officer of the regiment or party, or officer in charge of the department, after discharging the debts of the deceased, viz. the expense of funeral ceremonies, his debts in camp or quarters, and regimental debts of every description, shall account for the residue to the heir or heirs declared by will, whether written or verbal, or nominated in the regimental register, or in failure of such, to the legal representative of the deceased; and in the event of no executor, heir, or other representative of the deceased attending and establishing his claim, within twelve months from the date of the casualty, the amount in the hands of the officer having charge of the estate is to be remitted to the general treasury at the Presidency.

SECTION V.

Miscellaneous.

ARTICLE 104.

Sale of deserters' effects.

The effects of deserters are to be publicly sold, and the proceeds, after

payment of regimental debts, remitted by the officer commanding the corps to which the deserter belongs to the general treasury at the Presidency, or appropriated according to the rules obtaining at such Presidency.

SECTION V. Miscellaneous.

ARTICLE 105.

Construction of the Articles.

All powers and provisions contained in these Articles relating to the Commander-in-Chief shall be construed to extend to the Commander-in-Chief at any Presidency, and to the officer commanding the forces for the time being at any Presidency, unless when otherwise provided.

All powers and provisions contained in these Articles relating to soldiers shall be construed to extend to non-commissioned officers, unless when otherwise provided.

ARTICLE 106.

Of troops serving out of their own Presidency.

When any portion of the troops belonging to one Presidency shall be serving within the limits of another Presidency, such troops shall be considered as placed, during such service, under the orders and authority of the Commander-in-Chief, or commanding officer of the forces of the Presidency within which they are serving, for all the purposes of these Articles of War, in the same manner as though they belonged to such Presidency; and all the provisions of these Articles of War, which relate to the trial and punishment of offenders belonging to the Presidency within which the trial is held, are hereby declared applicable to the trial and punishment of offenders amenable to these Articles of War serving within such Presidency: Provided always, that it shall be lawful for the Governor-General in Council, in his executive capacity, to direct that the troops, or any part thereof, of any Presidency, whilst serving without the limits of such Presidency, shall continue under the orders and authority of the Commander-in-Chief, or commanding officer of the forces of the Presidency to which they belong, for all purposes of these Articles.

ARTICLE 107.

Of assembling courts-martial in foreign territories.

Any officer commanding any portion of the East-India Company's troops which may at any time be serving in any place out of Her Majesty's dominions, or of the possessions or territories which are or may be under the government of the said Company, or of the territories of those States in alliance with the said Company in which the said Company's forces are permanently stationed, shall, upon complaint made to him of any offence committed against the property or person of any inhabitant or resident in any such countries, by any person serving with or belonging to the Company's army, being under the immediate command of any such officer, summon and cause to assemble a general court-martial, which shall consist of not less than three officers, for the purpose of trying any such person, notwithstanding any such officer shall not have received any warrant empowering him to assemble courts-martial; and every such court-martial shall have the same powers in regard to summoning and examining witnesses, trial of and sentence upon any such offenders, as are granted by these Articles to general courts-martial: Provided that no sentence of any such court-martial shall be executed until the general commanding in chief the army to which the division, brigade, detachment, or party to which any person so tried, convicted, and adjudged to suffer punishment shall belong, shall

SECTION V. Miscellaneous.

have approved and confirmed the same; except where such sentence shall not exceed the powers granted by these Articles to a district or garrison court-martial, in which case the officer by whom the court is convened is hereby authorized to confirm, or commute, or mitigate, or remit the same, reporting the proceedings to the said general commanding in chief.

ARTICLE 108.

Trial of commissioned officers.

General courts-martial only shall have the power to try commissioned officers, or to pass sentence of death or transportation on any offenders.

ARTICLE 109.

No person to be tried a second time for the same offence.

No person, being acquitted or convicted before a court-martial of any offence, shall be liable to be tried a second time, by the same or any other court-martial, for the same offence: Provided always, that after a soldier shall have been found guilty by a court-martial of any military offence, such court-martial shall inquire into and receive evidence of any previous conviction of such soldier before a court-martial or a court of justice, and shall inquire into the general character of such soldier, for the purpose of affixing the punishment to which he is liable to be sentenced for the offence of which he has been so found guilty.

Provided that no such evidence shall in any case be received until the court shall have ascertained that such soldier had previously to his trial received notice of the intention to produce such evidence on the same. And it is hereby directed that such notice shall be given to all soldiers previous to trial.

*ARTICLE 110.

Trial of non-commissioned officers.

No non-commissioned officer shall be reduced to the ranks but by the sentence of a court-martial, or by order of the Commander-in-Chief of the Presidency to which the offender shall belong: Provided that no non-commissioned officer shall be reduced to the ranks for any limited period, nor suspended from his rank, nor reduced from a higher to a lower grade of non-commissioned officer, nor sentenced to suffer corporal punishment or imprisonment, without being first reduced to the ranks.

* ARTICLE 111.

Of complaints against superior officers.

Any officer or soldier thinking himself wronged by his superior or other officer, is to complain thereof to the commanding officer of his troop or company, by whom, if the grievance be not redressed, such officer, non-commissioned officer, or soldier, may complain to the commanding officer of his regiment, who is hereby required to examine into such complaint, or remit it to his superior authority, as the circumstances may require; but if the complaint should appear to be frivolous or groundless, the party preferring it shall be liable to be punished according to the sentence of a general or other court-martial in manner hereinbefore mentioned; provided that such offender shall not be liable to be sentenced to dismissal, nor to suffer corporal punishment or imprisonment with hard labour.

ARTICLE 112.

Extra drill, &c.

In case of light offences, a commanding officer may, without the intervention of a court-martial, award extra drill, with or without pack, of

a period not exceeding fifteen days; restriction to barrack limits not exceeding fifteen days; confinement in the quarter guard or defaulter's room, not exceeding seven days; removal from staff situations or acting appointments; or may order soldiers to be employed in piling and unpiling shot; and in cleaning accoutrements of men in hospital; but none of these descriptions of punishment shall be awardable by sentence of a court-martial. And a commanding officer may award solitary confinement not exceeding seven days.

Provided that soldiers in confinement shall be liable to be ordered to attend ordinary drill.

ARTICLE 113.

Prisoners of war.

Any officer or soldier, who shall be taken prisoner by the enemy, shall forfeit all claim to pay and allowances during the period of his remaining a prisoner and until he shall again return to the service; when, if he can establish, before a court-martial, that he was unavoidably taken prisoner in the course of service, and resisted as long as he was able, and that he hath not served with or assisted the enemy, and that he hath returned as soon as possible to the service, he shall be entitled to receive either the whole, or such portion of his arrears of pay and allowances as the Government of the Presidency to which he may belong shall determine, after the opinion or finding of such court-martial shall have been confirmed by the Commander-in-Chief. And every officer or soldier in imprisonment under sentence of a court-martial, or a commuted sentence, or under the sentence of a court of criminal judicature, shall, during the term of such imprisonment, receive subsistence only to the amount of his pay proper, according to the rates of pay granted to officers and soldiers of the Bengal army.

SECTION VI.

Mode of dealing with Offences not Military.

ARTICLE 114.

Persons charged with offences cognizable by the civil power to be delivered over to the magistrate.

In all places within the jurisdiction of any civil judicature, established by appointment of Her Majesty or of the said Company, officers and soldiers accused of capital crimes, or of violence, or of offences against person and property, punishable by such civil judicature, shall be delivered over to a magistrate to be proceeded against according to law.

And all officers and soldiers are hereby required to asssist the officers of justice in apprehending and securing any person so accused.

Crimes to be tried by Courts-Martial where no regular Criminal Tribunals exist.

ARTICLE 115.

Crimes to be tried by courts-martial where no regular criminal tribunals exist.

In any place within the limits of the charter of the East-India Company, whether in or out of the British territories, where there may be no civil judicature appointed by Her Majesty or the said Company for the trial of

SECTION VI. Mode of dealing with Offences not Military.

persons accused of offences ordinarily cognizable by civil tribunals, such offences when committed by officers or soldiers shall be cognizable by courts-martial.

ARTICLE 116.

General courts-martial.

General courts-martial shall have cognizance, ordinarily, of offences punishable with death;

Transportation for life;

Imprisonment for life;

Imprisonment for a period which may extend to fourteen years;

Imprisonment for a period which may extend to seven years.

ARTICLE 117.

District or garrison courts-martial.

District or garrison courts-martial shall have cognizance, ordinarily, of offences punishable with imprisonment for a period which may extend to three years, and, by special order, of offences ordinarily cognizable by general courts-martial not liable to the punishment of death or transportation, with power to sentence persons convicted of such offences to imprisonment for any period not exceeding three years.

ARTICLE 118.

Regimental, detachment, or line courts martial.

Regimental, detachment, or line courts-martial, shall have cognizance, ordinarily, of offences punishable with imprisonment for a period not exceeding six calendar months, and, by special order, of offences ordinarily cognizable by district or garrison courts-martial, with power to sentence persons convicted of such offences to imprisonment for a period not exceeding six calendar months.

General Courts-Martial.

Punishment of Death.

ARTICLE 119.

Punishment of death.

Any officer or soldier who shall be convicted by a general court-martial of the crime of "murder" shall be sentenced to suffer death by being hanged by the neck until he be dead.

If any injury intended against one person shall, through mistake or accident, light upon another person, and kill him, such killing shall be deemed to be murder, whensoever it would have been murder had the person against whom such injury was intended been killed.

Whensoever death shall result from any injury wilfully caused by an offender, but without his intending such injury to light on any person in particular, such offender shall be guilty of murder, if the offence would have been murder had he intended to do the injury to the person killed.

Offences punishable by Transportation for Life.

ARTICLE 120.

Offences punishable by transportation for life.

An officer or soldier who shall be convicted by a general court-martial

SECTION VI.
Mode of dealing with Offences not Military.

of any of the offences hereinafter mentioned, accompanied with an attempt to commit murder, or with wounding or other corporal injury to any person endangering the life of such person, that is say,—

1st. Breaking, or attempting to break, by day or night, into any dwelling-house, tent, boat, or other habitation, or into any building or place used for the preservation of property, with the intent to rob or steal;

2nd. Robbery or attempt rob;

3rd. Stealing or attempting to steal in a house, or from the person;

Shall be sentenced by such general court-martial to imprisonment with or without hard labour, and transportation for life.

Offences punishable by Imprisonment which may extend to Fourteen Years.

ARTICLE 121.

Offences.

Any officer or soldier who shall be convicted by a general court-martial of any of the offences specified in the last Article, accompanied with wounding or other corporal injury to any person, not endangering the life of such person; — or

ARTICLE 122.

Of wounding, or administering poison with intent to murder, whether the person wounded or to whom poison is administered be the person whom the offender intended to murder, or another; — or

ARTICLE 123.

Of robbery by open violence, or dacoity, that is to say, going forth in the day or in the night with an offensive weapon, or in a gang with or without an offensive weapon, with the intention of committing robbery, and by force or intimidation robbing or attempting to rob any person in any place, or attacking by open violence any house, or place of habitation, or any place in which property may be kept, for the purpose of robbing; — or

ARTICLE 124.

Of breaking, or attempting to break, into any dwelling-house, tent, boat, or other place of habitation, between sunset and sunrise, with intent to rob or steal; — or

ARTICLE 125.

Of breaking into any such place of habitation, or into any place used for the preservation of property, and stealing therefrom property the value of which shall exceed one hundred Company's rupees; — or

ARTICLE 126.

Of purchasing or receiving plundered or stolen property, knowing it to have been obtained by robbery by open violence, or by theft or robbery aggravated as described in Article 120 or Article 121;

Punishment.

Shall be sentenced by such general court-martial to imprisonment with or without hard labour for a period not exceeding fourteen years.

SECTION VI.
Mode of dealing with Offences not Military.

Offences.

Offences punishable by Imprisonment not exceeding Seven Years.

ARTICLE 127.

Any officer or soldier who shall be convicted by a general court-martial of culpable homicide not amounting to wilful murder; — or

ARTICLE 128.

Of premeditated affray, attended with homicide, or severe wounding, or other aggravating circumstances; — or

ARTICLE 129.

Of intentionally wounding, maiming, or otherwise doing corporal injury to any person; — or

ARTICLE 130.

Of accidentally wounding, maiming, or otherwise doing corporal injury to any person, with the intention of doing such injury to another person; — or

ARTICLE 131.

Of breaking into any dwelling-house, tent, boat, or other place of habitation, or into any place used for the preservation of property, between sunrise and sunset, with intent to steal therein; — or

ARTICLE 132.

Of stealing from any habitation, or from any person, any property exceeding three hundred Company's rupees in value; — or

ARTICLE 133.

Of having purchased any property so stolen, exceeding in value three hundred Company's rupees, knowing it to have been stolen; — or

ARTICLE 134.

Of arson; — or

ARTICLE 135.

Of an unnatural crime; — or

ARTICLE 136.

Of rape; — or

ARTICLE 137.

Of enticing and taking away, or of causing to be enticed or taken away, for any unlawful purpose, any unmarried woman under the age of fifteen years; — or

ARTICLE 138.

Of stealing a child under the age of eight years; — or

ARTICLE 139.

Of counterfeiting, or causing or procuring the fraudulent fabrication or alteration of any written deed, or printed paper, of any description; or any counterfeit seal or signature thereto; or the illicit imitation of any public stamp or stamped paper, established by Government; or of fraudulently issuing and publishing as true, or of fraudulently giving effect, or attempting to give effect, to fabricated deeds and papers, knowing them to be forgeries; or of using, selling, or disposing of such stamped paper, knowing the same to be counterfeit; — or

SECTION VI
Mode of dealing with Offences not Military.

ARTICLE 140.

Offences.

Of forging, or procuring to be forged, any counterfeit coin, in imitation of any of the gold, silver, or copper coin of the British Government in India; or of any coin usually received as money in the British territories; or of clipping, filing, drilling, or defacing any such coin; or of paying or tendering in payment counterfeit coin, bank notes, or other securities for money, knowing the same to be counterfeit, although such notes or securities shall be incomplete;

Punishment.

Shall be sentenced by such general court-martial to suffer imprisonment with or without hard labour, for any period not exceeding seven years.

District or Garrison Courts-Martial.

Offences punishable by Imprisonment not exceeding Three Years.

ARTICLE 141.

Powers of district or garrison courts-martial

It shall be competent to the Commander-in-Chief, and to any officer having authority to convene district or garrison courts-martial, to cause offenders, not being commissioned officers, accused of any of the offences specified in the preceding Articles of War, for which the punishment of death, or imprisonment or transportation for life is not provided therein, to be tried for such offences before a district or garrison court-martial, and such court shall have power, on conviction, to sentence any such offender to imprisonment, with or without hard labour, for any period not exceeding three years.

ARTICLE 142.

Offences

Any officer or soldier who shall be convicted by a general, district, or garrison court-martial, of stealing from any habitation, or from the person, any property, of value not exceeding three hundred Company's rupees, but exceeding fifty Company's rupees; — or

ARTICLE 143.

Of having purchased or received any stolen property of value not exceeding three hundred Company's rupees, knowing it to have been stolen, but not under aggravating circumstances; — or

ARTICLE 144.

Of having stolen property in his possession, and of having kept possession of such property after becoming aware of its having been stolen;

Punishment

Shall be sentenced by such court to suffer imprisonment with or without hard labour for any period not exceeding three years.

Regimental, Detachment, or Line Courts-Martial.

Offences punishable by Imprisonment not exceeding Six Months.

ARTICLE 145.

Regimental, detachment, or line courts-martial.

It shall be competent to any officer having authority to convene a court-martial, to cause offenders, not being commissioned officers, accused of

SECTION VI. Mode of dealing with Offences not Military.

any of the offences specified in the preceding Articles of War, for which no punishment exceeding imprisonment with hard labour for three years is therein provided, to be tried before regimental, or detachment, or line courts-martial; and any such court shall have power, on conviction, to sentence any such offender to suffer imprisonment, with or without hard labour, for any period not exceeding six calendar months.

Offences punishable by Imprisonment from Six Months to One Year, according to the Description of the Court.

ARTICLE 146.

Offences

Any officer or soldier who shall be convicted of stealing property to the value of fifty Company's rupees, or of less value; — or

ARTICLE 147.

Of assault or affray, unattended with homicide, severe wounding, or aggravating circumstances;

Punishment

Shall be sentenced to suffer imprisonment with or without hard labour for any period not exceeding one year, by the award of a general or district or garrison court-martial; or, for any period not exceeding six calendar months, by the award of a regimental, or detachment, or line court-martial.

Offences punishable by Imprisonment from Six Months to Two Years, according to the Description of the Court.

ARTICLE 148.

Offences

Any officer or soldier who shall be convicted of resisting the process of a magistrate or police officer; — or

ARTICLE 149.

Of having committed any offence against person or property for which provision is not already made in the preceding Articles of War;

Punishment

Shall be sentenced to suffer imprisonment for any period not exceeding two years, by the award of a general court-martial; not exceeding one year, by the award of a district or garrison court-martial; and not exceeding six calendar months, by the award of a regimental, or detachment, or line court-martial.

ARTICLE 150.

Offence of aiding and abetting.

Any officer or soldier who shall be convicted by a general, or district, or garrison, or regimental court-martial, of having been present, aiding and abetting, or of having caused, instigated, or procured, the commission of any of the offences specified in any of the preceding articles, shall be sentenced by such court to the punishment therein provided for such offence, and awardable by general, or district, or garrison, or regimental courts-martial, respectively.

SECTION VI
Mode of dealing with Offences not Military.

ARTICLE 151.

Sentence of death.

No sentence of death shall be carried into effect until confirmed by the Commander-in-Chief, nor, if the trial shall have been held within the British territories forming part of either of the Presidencies of Fort William, Fort St. George, and Bombay, respectively, until such confirmation shall have been concurred in by the Government of the Presidency where such trial shall have been held.

ARTICLE 152.

Confirmation or commutation.

The Commander-in-Chief is authorized at his discretion to confirm any sentence of death, or to remit such sentence, or to commute it into imprisonment with hard labour and transportation for life, or into imprisonment with hard labour for any term of years.

ARTICLE 153.

Transportation.

No sentence of transportation shall be carried into effect until confirmed by the Commander-in-Chief, and the Commander-in-Chief is authorized at his discretion to confirm any such sentence, or to commute it into imprisonment with or without hard labour for any period of time.

ARTICLE 154.

Remission or mitigation.

It shall be competent to any officer having authority to confirm the sentence of a general or other court-martial, to remit any sentence passed by such court-martial, or to mitigate such sentence by substituting simple imprisonment for imprisonment with hard labour, or by reducing the period of imprisonment, or by directing the discharge of the offender in lieu of any imprisonment.

ARTICLE 155.

No persons to be tried again, for same crime, after trial under this section.

A person who may have been tried for any offence by a court-martial under the authority of these Articles of War, shall not be tried for the same in any other court whatsoever; and no person who shall have been acquitted or convicted of any offence by a Court of Civil Judicature, shall be punished by a court-martial for the same, otherwise than by cashiering or dismissal from the service.

ARTICLE 156.

Rules respecting bazar and cantonment police, and punchayets, declared in force.

The Regulations at present in force at any Presidency, by which the office and powers of commissariat officers, or officers in charge of the police, or superintendents of bazars, are defined and controlled; or by which punchayets are constituted and guided; or by which jurisdiction is given to courts-martial over offences committed by persons amenable to the Articles of War, within certain limits beyond or around cantonments, are hereby declared to be in full force, and the same shall continue to be observed at the several Presidencies respectively.

SECTION VII.

Application of the Articles

ARTICLE 157.

All officers and soldiers, all drivers, farriers, trumpeters, and drummers;

SECTION VII. Application of the Articles.

all unattested recruits; hospital attendants, sub-assistant surgeons, native doctors, and dressers; all artificers and labourers, suttlers, followers, public and private, or others attached to, or serving with, any part of the army, are to be governed by these Articles, and subject to trial by courts-martial.

Provided, that persons of European descent (whether on the side of their father or mother) professing the Christian religion shall not be amenable to these Articles; but if belonging to the descriptions mentioned in this Article (and not being Her Majesty's natural-born subjects born in Europe, or the children of such subjects), shall be tried and punished in the same manner as persons are who are subject to the Mutiny Act and Articles of War in force for the better government of the European officers and soldiers in the service of the East-India Company.

Promulgation of the Articles.

ARTICLE 158.

These Articles are to be translated into the several languages of the different Presidencies, and the parts following, viz. the second section, together with the following Articles in other sections which are marked with an *(Asterisk), viz. 2, 4, 75, 78, 80, 102, 103, 110, and 111, are to be read once every three months at the head of every regiment, troop, or company mustered in the service, and to every recruit at the period of his attestation.

A.D. 1847. ACT XX.

AN ACT *for the Encouragement of Learning in the Territories subject to the Government of the East-India Company, by defining and providing for the enforcement of the Right called Copyright therein:* PASSED *by the Governor-General of India in Council, on the* 18*th day of December,* 1847.

Preamble.

WHEREAS doubts may exist whether the right called copyright can be enforced by the common law of England in those parts of the territories subject to the Government of the East-India Company into which the common law of England has been introduced:

And whereas doubts may exist whether the said right can be enforced by virtue of the principles of equity and good conscience in the other parts of the territories subject to the Government of the East-India Company:

And whereas for the encouragement of learning it is desirable that the existence of the said right should be placed beyond doubt, and that the

said right should be made capable for easy enforcement in every part of the said territories:

And whereas it is doubtful whether the Act of Parliament 5 & 6 Vict., cap. 45, entitled "An Act to amend the Law of Copyright," although such Act extend to every part of the British dominions, has made appropriate and sufficient provisions for the enforcement, in every part of the said territories subject to the Government of the East-India Company, of the said right by proprietors thereof; and whether the said Act of Parliament has made provision for the enforcement of the said right by or against any persons not being subject to the jurisdiction of the courts established by Her Majesty's charter:

Duration of copyright.

I. It is therefore hereby enacted, that the copyright in every book published in the lifetime of its author, within the said territories, after the passing of the Act of Parliament 3 & 4 Wm. 4, cap. 85, entitled "An Act for effecting an Arrangement with the East-India Company and for the better Government of His Majesty's Indian Territories till the 30th day of April, 1854," shall endure for the natural life of such author, and for the further term of seven years commencing at the time of his death, and shall be the property of such author and his assigns. Provided always, that if the said term of seven years shall expire before the end of forty-two years from the publication of such book, the copyright shall in that case endure for such period of forty-two years; and that the copyright in every book published after the death of its author and after the passing of the Act of Parliament last aforesaid shall endure for the term of forty-two years from the first publication thereof, and shall be the property of the proprietor of the author's manuscript, from which such book shall be first published, and his assigns.

License to re-publish on refusal of proprietor of copyright.

II. And whereas it is expedient to provide against the suppression of books of importance to the public: It is enacted, that it shall be lawful for the Governor-General in Council, on complaint made to them that the proprietor of the copyright in any book published after the passing of this Act within the said territories has, after the death of its author, refused to republish or to allow the republication of the same, and that by reason of such refusal such book may be withheld from the public, to grant a license to such complainant to publish such book in such manner, and subject to such conditions as they may think fit, and it shall be lawful for such complainant to publish such book according to such license.

Registry of copyrights;

how accessible.

Copies of entries to be given.

III. And it is hereby enacted, that a book of registry, wherein may be registered, as hereinafter enacted, the proprietorship in the copyright of books and assignments thereof, and licenses affecting such copyright, shall be kept in the office of the secretary to the Government of India for the Home Department, and shall, at all convenient times, be opened to the inspection of any person on payment of eight annas for every entry which shall be searched for or inspected in the said book; and that such officer shall, whenever thereunto reasonably required, give a copy of any entry in such book certified under his hand, to any person requiring the same, on payment to him of the sum of two rupees, and such copies so certified shall be received in evidence in all courts and in all summary proceedings,

and shall be primâ facie proof of the proprietorship or assignment of copyright or license as therein expressed, but subject to be rebutted by other evidence.

Punishment for falsification.

IV. And it is enacted, that if any person shall wilfully make, or cause to be made, any false entry in the registry-book aforesaid, or shall wilfully produce, or cause to be tendered in evidence, any paper falsely purporting to be a copy of any entry in the said book, he shall be guilty of a misdemeanour, and shall be punished with imprisonment with or without hard labour for a term not exceeding three years.

Entries in registry, how to be made.

V. And it is enacted, that after the passing of this Act, it shall be lawful for the proprietor of copyright in any book published after the passing of the said Act of Parliament 3 & 4 Wm. 4, cap. 85, to make entry in the registry-book of the title of such book, the time of the first publication, and the name and place of abode of the publisher thereof, and the name and place of abode of the proprietor of the copyright of the said book, or of any portion of such copyright, in the form in that behalf given in the Schedule to this Act annexed, upon payment of the sum of two rupees to the said secretary; and that it shall be lawful for every such registered proprietor to assign his interest or any portion of his interest therein, by making entry in the said book of registry of such assignment, and of the name and place of abode of the assignee thereof, in the form given in that behalf in the said Schedule, on payment of the like sum; and such assignment so entered shall be effectual in law to all intents and purposes whatsoever without being subject to any stamp or duty, and shall be of the same force and effect as if such assignment had been made by deed.

Their legal effect.

Redress of persons aggrieved by registry.

VI. And it is enacted, that if any person shall deem himself aggrieved by any entry made under colour of this Act in the said book of registry, it shall be lawful for such person to apply by motion to the Supreme Court of Calcutta, or if the court shall not be then sitting, to any judge of such court sitting in chambers, for an order that such entry may be expunged or varied; and that upon any such application to the said court, or to a judge as aforesaid, such court or judge shall make such order for expunging, varying, or confirming such entry, either with or without costs, as to such court or judge shall seem just, and the said secretary shall, on the production to him of any such order for expunging or varying any such entry, expunge or vary the same according to the requisitions of such order.

Penalty for infringement of copyright.

VII. And it is enacted, that if any person shall, after the passing of this Act, print, or cause to be printed, either for sale or exportation, any book in which there shall be subsisting copyright, without the consent in writing of the proprietor thereof, or shall have in his possession for sale or hire any such book so unlawfully printed without such consent as aforesaid, such offender, if he shall have so offended within the local limits of the jurisdiction of any of the Courts of Judicature established by Her Majesty's charter, shall be liable to a special action on the case in such court; and if he shall have so offended in any other part of the

May be sued for in Her Majesty's and in the East-India Company's Courts.

territories subject to the Government of the East-India Company, to a suit in the Zillah Court within the jurisdiction of which he shall have so offended, which shall and may be prosecuted in the same manner in which any other action of damages may be brought and prosecuted there; and if he shall have so offended in any such last-mentioned part of the territories subject to the Government of the East-India Company in which there is no Zillah Court, to a suit in the highest local court exercising original civil jurisdiction in such part of the said territories.

Proceedings to be held in Her Majesty's courts

VIII. And it is hereby enacted, that, after the passing of this Act, in any suit or action brought, in any of the Courts of Judicature established by Her Majesty's charter, under the provisions of this Act, against any person for printing any such book for sale, hire, or exportation—or for selling, publishing, or exposing to sale or hire, or causing to be sold, published, or exposed to sale or hire—or for having in his possession for sale or hire, any such book so unlawfully printed, the defendant, on pleading thereto, shall give to the plaintiff a notice in writing of any objections on which he means to rely on the trial of such action; and if the nature of his defence be that the plaintiff in such action was not the author or first publisher of the book in which he shall by such action claim copyright, or is not the proprietor of the copyright therein, or that some other person than the plaintiff was the author or first publisher of such book, or is the proprietor of the copyright therein, then the defendant shall specify in such notice the name of the person who he alleges to have been the author or first publisher of such book, or the proprietor of the copyright therein, together with the title of such book, and the time when, and the place where such book was first published; otherwise the defendant in such action shall not, at the trial or hearing such action, be allowed to give any evidence that the plaintiff in such action was not the author or first publisher of the book in which he claims such copyright as aforesaid, or that he was not the proprietor of the copyright therein; and at such trial or hearing no other objection shall be allowed to be made on behalf of such defendant than the objections stated in such notice, or that any other person was the author or first publisher of such book, or the proprietor of the copyright therein, than the person specified in such notice, or give in evidence in support of his defence any other book than one substantially corresponding in title, time, and place of publication, with the title, time, and place specified in such notice.

Proceedings in the East-India Company's courts.

IX. And it is hereby enacted, that, after the passing of this Act, in any such suit or action as last aforesaid brought in any Zillah Court or other local court as aforesaid, the defendant shall state in his answer all such matters as he means to rely on, and which, by the last preceding section, the defendant in any suit or action brought in any of the Courts of Judicature established by Her Majesty's charter is required to give notice of in writing, otherwise such defendant shall be subject to the same consequences for any omission in his answer as a defendant is made subject to by the last preceding section for any omission in his notice.

Protection of copyright in articles in encyclopædias and periodical works

X. And it is hereby enacted, that when any publisher or other person shall within the said territories, before or at the time of the passing this

Act, but after the passing of the said Act of Parliament 3 and 4 Wm. 4, cap. 85, have projected, conducted, and carried on, or shall hereafter project, conduct, or carry on, or be the proprietor of any encyclopædia, review, magazine, periodical work, or work published in a series of books or parts, or any book whatsoever, and shall have employed, or shall employ, any persons to compose the same, or any volumes, parts, essays, articles, or portions thereof for publication in, or as part of the same, and such work, volumes, parts, essays, articles, or portions shall have been, or shall hereafter be composed under such employment on the terms that the copyright therein shall belong to such proprietor, projector, publisher, or conductor, and paid for by such proprietor, projector, publisher, or conductor, the copyright in every such encyclopædia, review, magazine, periodical work, and work published in a series of books or parts, and in every volume, part, essay, article, and portion so composed and paid for, shall be the property of such proprietor, projector, publisher, or conductor, who shall enjoy the same rights as if he were the actual author thereof, and shall have such term of copyright therein as is given to the authors of books in this Act; except only, that in the case of essays, articles, or portions forming part of and first published in reviews, magazines, or other periodical works of a like nature, after the term of twenty-eight years from the first publication thereof respectively, the right of publishing the same in a separate form shall revert to the author for the remainder of the term given by this Act. Provided always, that during the term of twenty-eight years the said proprietor, projector, publisher, or conductor shall not publish any such essay, article, or portion separately or singly without the consent previously obtained of the author thereof or his assigns: Provided also, that nothing herein contained shall alter or affect the right of any person who shall have been, or shall be so employed as aforesaid, to publish any such his composition in a separate form, who by any contract, express or implied, may have reserved, or may hereafter reserve, to himself such right; but every author reserving, retaining, or having such right, shall be entitled to the copyright in such composition, when published in a separate form, according to this Act, without prejudice to the right of such proprietor, projector, publisher, or conductor as aforesaid.

How the above articles are to be registered

XI. And it is hereby enacted, that the proprietor of the copyright in any encyclopædia, review, magazine, periodical work, or other work published in a series of books or parts, shall be entitled to all the benefits of the registration in the office of the secretary to the Government of India for the Home Department under this Act, on entering in the said book of registry the title of such encyclopædia, review, periodical work, or other work published in a series of books or parts—the time of the first publication of the first volume, number, or part thereof, or of the first volume, number, or part first published after the passing of this Act, in any such work which shall have been published heretofore, and after the passing of the said Act of Parliament 3 and 4 Wm. 4, cap. 85—and the name and place of abode of the proprietor thereof, and of the publisher thereof, when such publisher shall not also be the proprietor thereof.

Pirated copies forfeited to the copyright proprietor

XII. And it is enacted, that all copies of any book wherein there shall be copyright, and of which entry shall have been made in the said registry-

book, and which shall have been unlawfully printed without the consent of the registered proprietor of such copyright in writing under his hand first obtained, shall be deemed to be the property of the proprietor of such copyright, and who shall be registered as such, and such registered proprietor shall, after demand thereof in writing, be entitled to sue for and recover the same, or damages for the detention thereof.

Proceedings to recover printed copies in Her Majesty's courts,

XIII. And it is enacted, that if the case be within the jurisdiction of any of the Courts of Judicature established by Her Majesty's charter, such registered proprietor shall be entitled to sue for and recover such copies, or damages for the detention thereof, in an action of detinue, from any party who shall detain the same, or to sue for and recover damages for the conversion thereof in an action of trover; and that if the case be within the jurisdiction of any Zillah Court or other local court as aforesaid, the registered proprietor shall be entitled to sue for and recover such copies, or damages for the detention or conversion thereof, in such form as is in use in the said Zillah or other local courts for the recovery of specific personal property, or damages for the detention or conversion thereof.

in the courts of the East-India Company

No proceedings under this Act to be taken without previous registry

XIV. And it is enacted, that no proprietor of copyright in any book first published after the passing of the said Act of Parliament 3 and 4 Wm. 4, cap. 85, shall maintain under the provisions of this Act any action or suit at law or in equity, or any summary proceeding in respect of any infringement of such copyright, unless he shall before commencing such action, suit, or proceeding, have caused an entry to be made in the book of registry at the office of the said secretary of such book, pursuant to this Act. Provided always, that the omission to make such entry shall not affect the copyright in any book, nor the right to sue or proceed in respect of the infringement thereof, except the right to sue or proceed in respect of the infringement thereof under the provisions of this Act.

Recovery of costs in Her Majesty's courts

XV. And it is enacted, that if any action or suit shall be commenced or brought in any of the Courts of Judicature established by Her Majesty's charter against any person or persons whomsoever for doing, or causing to be done, anything in pursuance of this Act, the defendant or defendants in such action may plead the general issue, and give the special matter in evidence; and if upon such action a verdict shall be given for the defendant, or the plaintiff shall become nonsuited or discontinue his action, then the defendant shall have and recover his full costs, for which he shall have the same remedy as a defendant in any case by law hath in the said last-mentioned courts.

Limitation of suits,

XVI. And it is enacted, that all actions, suits, bills, indictments, informations, and other criminal proceedings for any offence which shall be committed against the Act, shall be brought, sued, and commenced within twelve calendar months next after such offence committed, or else the same shall be void and of none effect.

twelve months

Rights anterior to this Act protected.

XVII. Provided always, and it is enacted, that nothing in this Act contained shall affect, alter, or vary any right subsisting at the time of passing this Act except as herein expressly enacted; and all contracts,

agreements, and obligations made and entered into before the passing of this Act, and all remedies relating thereto, shall remain in full force, anything herein contained to the contrary notwithstanding.

Schedule.

SCHEDULE.

No. 1.

Original Entry of Proprietorship of Copyright of a Book.

Time of making the Entry.	Title of Book.	Name of the Publisher and Place of Publication.	Name and Place of abode of the Proprietor of the Copyright.	Date of First Publication.

No. 2.

Form of Entry of Assignment of Copyright in any Book previously registered.

Date of Entry.	Title of Book.	Assigner of the Copyright.	Assignee of the Copyright.
	(Set out the Title of the Book, and refer to the page of the Registry Book in which the original Entry of the Copyright thereof is made.)		

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